

By: Representative Broomfield

To: Education;
Apportionment and
Elections

HOUSE BILL NO. 383

1 AN ACT TO AMEND SECTION 37-5-7, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT THE ELECTION OF MEMBERS OF THE COUNTY BOARDS OF
3 EDUCATION SHALL BE HELD EVERY FOUR YEARS IN THE SAME MANNER AS
4 ELECTIONS ARE HELD FOR OTHER COUNTY OFFICES; TO AMEND SECTION
5 37-5-19, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT VACANCIES ON
6 THE COUNTY BOARDS OF EDUCATION SHALL BE FILLED IN THE SAME MANNER
7 AS PROVIDED FOR OTHER COUNTY OFFICES; TO AMEND SECTION 37-7-203,
8 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE TRUSTEES OF
9 MUNICIPAL SEPARATE SCHOOL DISTRICTS SHALL BE ELECTED FROM SPECIAL
10 TRUSTEE ELECTION DISTRICTS BY THE QUALIFIED ELECTORS OF THE
11 DISTRICTS; TO PROVIDE THAT THE ELECTIONS SHALL BE HELD EVERY FOUR
12 YEARS IN THE SAME MANNER AS ELECTIONS ARE HELD FOR OTHER MUNICIPAL
13 OFFICERS; TO AMEND SECTION 37-7-703, MISSISSIPPI CODE OF 1972, TO
14 PROVIDE THAT THE TRUSTEES OF SPECIAL MUNICIPAL SEPARATE SCHOOL
15 DISTRICTS SHALL BE ELECTED IN THE SAME MANNER AS TRUSTEES OF
16 MUNICIPAL SEPARATE SCHOOL DISTRICTS; TO AMEND SECTION 37-7-713,
17 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE ELECTION OF TRUSTEES
18 OF SPECIAL MUNICIPAL SEPARATE SCHOOL DISTRICTS WHERE THE MAJORITY
19 OF EDUCABLE CHILDREN OF THE DISTRICT RESIDE OUTSIDE THE CORPORATE
20 LIMITS; TO AMEND SECTION 37-7-207, MISSISSIPPI CODE OF 1972, TO
21 PROVIDE THAT TRUSTEES OF CONSOLIDATED AND LINE CONSOLIDATED SCHOOL
22 DISTRICTS SHALL BE ELECTED FROM SPECIAL TRUSTEE ELECTION DISTRICTS
23 BY THE QUALIFIED ELECTORS OF SUCH DISTRICT FOR FOUR-YEAR TERMS; TO
24 AMEND SECTION 37-7-221, MISSISSIPPI CODE OF 1972, IN CONFORMITY
25 THERETO; TO REPEAL SECTIONS 37-7-705 THROUGH 37-7-711, 37-7-715
26 AND 37-7-717, MISSISSIPPI CODE OF 1972, WHICH PROVIDE CERTAIN
27 METHODS FOR SELECTING TRUSTEES OF SPECIAL MUNICIPAL SEPARATE
28 SCHOOL DISTRICTS; TO REPEAL SECTIONS 37-7-209 THROUGH 37-7-219,
29 MISSISSIPPI CODE OF 1972, WHICH PROVIDE CERTAIN METHODS FOR
30 ELECTING TRUSTEES OF MUNICIPAL SEPARATE SCHOOL DISTRICTS FROM
31 ADDED TERRITORY; AND FOR RELATED PURPOSES.

32 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

33 SECTION 1. Section 37-5-7, Mississippi Code of 1972, is
34 amended as follows:

35 37-5-7. (1) On the first Tuesday after the first Monday in
36 November 1999 and every four (4) years thereafter, an election
37 shall be held in each county in this state in the same manner and
38 at the same time as general state and county elections are held
39 and conducted, which election shall be held for the purpose of
40 electing the county boards of education established under the

41 provisions of this chapter. * * * All members of the county board
42 of education as in this section constituted, shall take office on
43 the first Monday of January following the date of their election
44 and shall serve for a term of four (4) years. However, in order
45 to provide for an orderly transition all members of the board
46 whose terms expire after the first Monday of January 1999 shall
47 continue to serve for the remainder of the unexpired term, at
48 which time the vacancy shall be filled in the manner provided in
49 Section 37-5-19.

50 (2) On the first Tuesday after the first Monday in November,
51 in any year in which any county shall elect to utilize the
52 authority contained in Section 37-5-1(2), an election shall be
53 held in each such county in this state for the purpose of electing
54 the county boards of education in such counties. At the election
55 the members of the * * * county board of education from Districts
56 One and Two shall be elected for a term of four (4) years, the
57 members from Districts Three and Four shall be elected for a term
58 of four (4) years, and the member from District Five shall be
59 elected for a term of two (2) years. Thereafter, members shall be
60 elected at general elections as vacancies occur for terms of four
61 (4) years each. All members of the county board of education
62 shall take office on the first Monday of January following the
63 date of their election.

64 SECTION 2. Section 37-5-19, Mississippi Code of 1972, is
65 amended as follows:

66 37-5-19. Vacancies in the membership of the county board of
67 education shall be filled by appointment, within sixty (60) days
68 after the vacancy occurs, by the remaining members of the county
69 board of education. The appointee shall be selected from the
70 qualified electors of the district in which the vacancy occurs.
71 The president of the board shall certify to the Secretary of State
72 the fact of the appointment, and the person so appointed shall be
73 commissioned by the Governor. If the unexpired term is longer
74 than six (6) months, the appointee shall serve until a successor
75 is elected as provided in House Bill No. _____, 1999 Regular
76 Session. If the vacancy occurs more than ninety (90) days before
77 the general election in a year in which an election would normally

78 be held for that office as provided by law, the person so
79 appointed shall serve the unexpired portion of the term. The
80 vacancies shall be filled for the unexpired term by the qualified
81 electors at the next regular special election day occurring more
82 than ninety (90) days after the occurrence of the vacancy. The
83 president of the county board of education, within ten (10) days
84 after the occurrence of the vacancy, shall make an order in
85 writing, directed to the commissioners of election, commanding an
86 election to be held on the next regular special election day to
87 fill the vacancy. The election commissioners shall require each
88 candidate to qualify at least sixty (60) days before the date of
89 the election, shall give a certificate of election to the person
90 elected and shall return to the Secretary of State a copy of the
91 order of holding the election that shows the results of the
92 election and that is certified by the president of the county
93 board of education. The election must be held in the same manner
94 provided for other county and county district office vacancies in
95 Section 23-15-833. The Governor shall commission the person
96 elected.

97 However, where only one (1) person has qualified with the
98 commissioners of election to be a candidate within the time
99 provided by law, the commissioners of election shall certify to
100 the county board of education that there is but one (1) candidate.
101 The county board of education shall dispense with the election and
102 shall appoint the candidate so certified to fill the unexpired
103 term. The president of the board shall certify to the Secretary
104 of State the candidate so appointed to serve in the office, and
105 that candidate shall be commissioned by the Governor. If no
106 person has qualified at least sixty (60) days before the election,
107 the commissioners of election shall certify that fact to the
108 county board of education which shall dispense with the election
109 and fill the vacancy by appointment. The president of the county
110 board of education shall certify to the Secretary of State the

111 fact of the appointment, and the Governor shall commission the
112 person elected.

113 SECTION 3. Section 37-7-203, Mississippi Code of 1972, is
114 amended as follows:

115 37-7-203. (1) The boards of trustees of all municipal
116 separate school districts created under the provisions of Article
117 3 of this chapter and all special municipal separate school
118 districts created under Article 13 of this chapter, either with or
119 without added territory, shall consist of five (5) members. On
120 the first Tuesday after the first Monday in June 2001, and every
121 four (4) years thereafter, an election shall be held in each
122 municipal separate school district and special municipal separate
123 school district in this state, in the same manner and at the same
124 time as the regular municipal elections are held, for the purpose
125 of electing the members of the boards of trustees established
126 under this article. All members of the boards of trustees as
127 constituted in House Bill No. _____, 1999 Regular Session, shall
128 take office on the first Monday of July following the date of
129 their election and shall serve for a term of four (4) years. The
130 five (5) members of the board of trustees of the school district
131 shall be elected from special trustee election districts by the
132 qualified electors of the districts, as provided in this section.
133 The governing authorities of the municipality shall apportion the
134 municipal separate school district or special municipal separate
135 school district, including added territory, into five (5) special
136 trustee election districts as nearly equal as possible according
137 to population, incumbency and other factors pronounced by the
138 courts before House Bill No. _____, 1999 Regular Session. The
139 municipal governing authority shall place upon its minutes the
140 boundaries determined for the new five (5) trustee election
141 districts. The municipal governing authority shall thereafter
142 publish the same in a newspaper of general circulation within the
143 school district for at least three (3) consecutive weeks. After

144 having given notice of publication and recording the same upon the
145 minutes of the municipal governing authority, the new district
146 lines shall be effective. All incumbent trustees holding office
147 at the time of the creation of the trustee election districts
148 shall continue holding their respective offices, regardless of
149 where they reside in the school district, for the remainder of the
150 term of office to which they have been selected before House Bill
151 No. _____, 1999 Regular Session, and their successors shall be
152 elected from the new trustee election districts constituted in
153 this section in the manner provided for in this section.

154 (2) Vacancies in the membership of the board of trustees of
155 any municipal separate school district or special municipal
156 separate school district shall be filled by appointment within
157 sixty (60) days after the vacancy occurs by the governing
158 authorities of the municipality. The appointee shall be selected
159 from the qualified electors of the district in which the vacancy
160 occurs. The president of the municipal governing authority shall
161 certify to the Secretary of State the fact of the appointment, and
162 the person so appointed shall be commissioned by the Governor. If
163 the unexpired term is longer than six (6) months, the appointee
164 shall serve until a successor is elected as provided in this
165 section. If the vacancy occurs more than ninety (90) days before
166 the general election in a year in which an election would normally
167 be held for that office as provided by law, the person so
168 appointed shall serve the unexpired portion of the term. The
169 vacancies shall be filled for the unexpired term by the qualified
170 electors at the next regular special election day occurring more
171 than ninety (90) days after the occurrence of the vacancy. The
172 president of the municipal governing authority, within ten (10)
173 days after the happening of the vacancy, shall make an order in
174 writing directed to the commissioners of election, commanding an
175 election to be held on the next regular special election day to
176 fill the vacancy. The election commissioners shall require each

177 candidate to qualify at least sixty (60) days before the date of
178 the election, shall give a certificate of election to the person
179 elected, and shall return to the Secretary of State a copy of the
180 order of holding the election showing the results thereof,
181 certified by the president of the municipal governing authority.
182 The election shall be held in the same manner provided for other
183 municipal office vacancies. The Governor shall commission the
184 person elected.

185 However, where only one (1) person has qualified with the
186 commissioners of election to be a candidate within the time
187 provided by law, the commissioners of election shall certify to
188 the municipal governing authority that there is but one (1)
189 candidate. The municipal governing authority shall dispense with
190 the election and shall appoint the candidate that is certified to
191 fill the unexpired term. The president of the municipal governing
192 authority shall certify to the Secretary of State the candidate
193 that is appointed to serve in the office, and the Governor shall
194 commission that candidate. If no person has qualified at least
195 sixty (60) days before the date of the election, the commissioners
196 of election shall certify that fact to the municipal governing
197 authority which shall dispense with the election and fill the
198 vacancy by appointment. The president of the municipal governing
199 authority shall certify to the Secretary of State the fact of the
200 appointment, and the Governor shall commission the person
201 appointed.

202 SECTION 4. Section 37-7-703, Mississippi Code of 1972, is
203 amended as follows:

204 37-7-703. Except as otherwise provided in Section 37-7-713,
205 in all * * * special municipal separate school districts that
206 embrace the entire county in which, according to the latest
207 available federal census, a majority of the inhabitants of the
208 county reside within the corporate limits of the municipality, the
209 board of trustees of the special municipal separate school

210 district shall be elected in the manner provided by subsection (1)
211 of Section 37-7-203, and all of the provisions thereof shall be
212 fully applicable in all respects to the selection and constitution
213 of board of trustees.

214 SECTION 5. Section 37-7-713, Mississippi Code of 1972, is
215 amended as follows:

216 37-7-713. In all special municipal separate school districts
217 where the district embraces less than the entire area of the
218 county and where the majority of the educable children of the
219 district reside outside the limits of the municipality, * * *
220 the * * * special municipal separate school district shall be
221 governed by a board of trustees consisting of five members, to be
222 elected by the qualified electors of the municipal separate school
223 district from the district at large in the manner provided by
224 Sections 37-7-223 through 37-7-229, and all duties imposed upon
225 the county superintendent of education by said sections with
226 reference to the elections shall be imposed upon and performed by
227 the superintendent of the municipal separate school district.
228 However, the first board of trustees of the special municipal
229 separate school district shall be appointed in the following
230 manner. The governing authorities of the municipality shall
231 appoint three (3) trustees, and the appointments shall be made so
232 that one (1) trustee shall be appointed to serve until the first
233 Saturday of March following the appointment, one (1) for two (2)
234 years longer, and one (1) for four (4) years longer. The board of
235 education of the county shall appoint two (2) trustees, the
236 appointments to be made so that one (1) trustee shall be appointed
237 to serve until the first Saturday of March of the second year
238 following the appointment, and one (1) trustee for two (2) years
239 longer. After the original appointments the trustees of * * * a
240 special municipal separate school district shall be elected for a
241 term of four (4) years, as * * * provided in this section.
242 All * * * members of the board of trustees shall be residents and

243 qualified electors of the school district. All vacancies which
244 may occur during a term of office shall be filled by appointment
245 by the remaining members of the board of trustees, the appointee
246 to have the same qualifications as other members of the board.
247 The appointment shall be made within thirty (30) days after the
248 vacancy occurs. The person so appointed shall serve only until
249 his successor shall have qualified. The successor to serve the
250 remainder of the unexpired term shall be elected on the first
251 Saturday of March next following the occurrence of the vacancy in
252 the same manner as provided for by Sections 37-7-223 through
253 37-7-229.

254 SECTION 6. Section 37-7-207, Mississippi Code of 1972, is
255 amended as follows:

256 37-7-207. (1) All school districts reconstituted or created
257 under the provisions of Article 3 of this chapter, and which lie
258 wholly within one (1) county, but not including municipal separate
259 and countywide districts, shall be governed by a board of five (5)
260 trustees. The first board of trustees of such districts shall be
261 appointed by the county board of education, and the original
262 appointments shall be so made that one (1) trustee shall be
263 appointed to serve until the first Saturday of March following the
264 appointments, one (1) for one (1) year longer, one (1) for two (2)
265 years longer, one (1) for three (3) years longer, and one (1) for
266 four (4) years longer. After the original appointments, the
267 trustees of the school districts shall be elected by the qualified
268 electors of the school districts in the manner provided for in
269 Sections 37-7-223 through 37-7-229 with each trustee to be elected
270 for a term of four (4) years. The five (5) members of the board
271 of trustees of such consolidated school district may be elected
272 from special trustee election districts by the qualified electors
273 thereof, as * * * provided in this section. * * * The board of
274 supervisors of the county shall apportion the consolidated school
275 district into five (5) special trustee election districts as

276 nearly equal as possible according to population, incumbency and
277 other factors pronounced by the courts before House Bill No. _____,
278 1999 Regular Session. The board of supervisors shall place upon
279 its minutes the boundaries determined for the new five (5) trustee
280 election districts. The board of supervisors shall thereafter
281 publish the same in a newspaper of general circulation within the
282 school district for at least three (3) consecutive weeks; and
283 after having given notice of publication and recording the same
284 upon the minutes of the board of supervisors, the new district
285 lines shall * * * be effective. All incumbent trustees holding
286 office at the time of the creation of the trustee election
287 districts shall continue holding their respective offices,
288 regardless of where they reside in the school district, for the
289 remainder of the term of office to which they have been selected
290 before House Bill No. _____, 1999 Regular Session, and their
291 successors shall be elected from the new trustee election
292 districts constituted in this section by the qualified electors of
293 the district for a term of four (4) years.

294 * * * All vacancies which may occur during a term shall be
295 filled by appointment of the consolidated school district
296 trustees, but the person so appointed shall serve only until the
297 next general election following such appointment, at which time a
298 person shall be elected for the remainder of an unexpired
299 four-year term at the same time and in the same manner as a
300 trustee is elected for the full term then expiring. The person so
301 elected to the unexpired term shall take office immediately. Said
302 appointee shall be selected from the qualified electors of the
303 district in which the vacancy occurs.

304 (2) All school districts reconstituted and created under the
305 provisions of Article 3 of this chapter, which embrace territory
306 in two (2) or more counties, but not including municipal separate
307 school districts, shall be governed by a board of five (5)
308 trustees. In making the original appointments, the several county

309 boards of education shall appoint the trustee or trustees to which
310 the territory in such county is entitled, and, by agreement
311 between the county boards concerned, one (1) person shall be
312 appointed to serve until the first Saturday of March following
313 such appointments, one (1) for one (1) year longer, one (1) for
314 two (2) years longer, one (1) for three (3) years longer and one
315 (1) for four (4) years longer. Thereafter, such trustees shall be
316 elected as is provided for in Sections 37-7-223 through 37-7-229
317 for a term of four (4) years. The five (5) members of the board
318 of trustees of such line consolidated school district may be
319 elected from special trustee election districts by the qualified
320 electors thereof, as * * * provided in this section. * * * The
321 boards of supervisors of such counties shall apportion the line
322 consolidated school district into five (5) special trustee
323 election districts as nearly equal as possible according to
324 population, incumbency and other factors pronounced by the courts
325 before House Bill No. _____, 1999 Regular Session. The boards of
326 supervisors shall place upon their minutes the boundaries
327 determined for the new five (5) trustee election districts. The
328 boards of supervisors shall thereafter publish the same in a
329 newspaper of general circulation within said school district for
330 at least three (3) consecutive weeks; and after having given
331 notice of publication and recording the same upon the minutes of
332 the boards of supervisors, the new district lines shall * * * be
333 effective. All incumbent trustees holding office at the time of
334 the creation of the trustee election districts shall continue
335 holding their respective offices, regardless of where they reside
336 in the school district, for the remainder of the term of office to
337 which they have been selected before House Bill No. _____, 1999
338 Regular Session, and their successors shall be elected from the
339 new trustee election districts constituted in House Bill No. _____,
340 1998 Regular Session, for a term of four (4) years.

341 * * * In all such elections, the trustee elected shall be a

342 resident and qualified elector of the district entitled to the
343 representation upon the board, and he shall be elected only by the
344 qualified electors of such district. All vacancies which may
345 occur during a term of office shall be filled by appointment of
346 the consolidated line school district trustees, but the person so
347 appointed shall serve only until the next general election
348 following such appointment, at which time a person shall be
349 elected for the remainder of an unexpired four-year term at the
350 same time and in the same manner as the trustee is elected for the
351 full term then expiring. The person so elected to the unexpired
352 term shall take office immediately.

353 SECTION 7. Section 37-7-221, Mississippi Code of 1972, is
354 amended as follows:

355 37-7-221. The election of consolidated or consolidated line
356 school district trustees shall be held in the manner provided for
357 in Section 37-7-207.

358 SECTION 8. Sections 37-7-705, 37-7-707, 37-7-709, 37-7-711,
359 37-7-715 and 37-7-717, Mississippi Code of 1972, which provide
360 certain methods for selecting trustees of special municipal
361 separate school districts, are repealed.

362 SECTION 9. Sections 37-7-209, 37-7-211, 37-7-213, 37-7-215,
363 37-7-217 and 37-7-219, Mississippi Code of 1972, which provide
364 certain methods for electing trustees of municipal separate school
365 districts from added territory, are repealed.

366 SECTION 10. The Attorney General of the State of Mississippi
367 shall submit this act, immediately upon approval by the Governor,
368 or upon approval by the Legislature subsequent to a veto, to the
369 Attorney General of the United States or to the United States
370 District Court for the District of Columbia in accordance with the
371 provisions of the Voting Rights Act of 1965, as amended and
372 extended.

373 SECTION 11. This act shall take effect and be in force from
374 and after the date it may be effectuated under Section 5 of the

375 Voting Rights Act of 1965, as amended and extended.