

By: Representative West

To: Education;
Apportionment and
Elections

HOUSE BILL NO. 1311

1 AN ACT TO AMEND SECTION 37-7-703, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT THE BOARD OF TRUSTEES OF A CERTAIN COUNTY SHALL BE
3 ELECTED; TO PROVIDE THAT THE BOARD OF TRUSTEES SHALL BE ELECTED
4 FROM DISTRICTS WHICH ARE THE SAME AS THE BOARD OF SUPERVISORS
5 DISTRICTS; TO PROVIDE THAT THE ELECTION FOR THE BOARD OF TRUSTEES
6 SHALL BE A NONPARTISAN ELECTION; TO PRESCRIBE THE PROCEDURES TO BE
7 USED IF A VACANCY OCCURS ON THE BOARD OF TRUSTEES; TO PROVIDE THAT
8 THE CANDIDATE WITH THE HIGHEST NUMBER OF VOTES SHALL BE DECLARED
9 ELECTED; TO AMEND SECTIONS 23-15-193, 37-7-705, 37-7-707,
10 37-7-709, 37-7-711, 37-7-713, 37-7-715 AND 37-7-717, MISSISSIPPI
11 CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

13 SECTION 1. Section 37-7-703, Mississippi Code of 1972, is
14 amended as follows:

15 37-7-703. (1) Except as provided in subsection (2) of this
16 section, in all such special municipal separate school districts
17 which embrace the entire county in which, according to the latest
18 available federal census, a majority of the inhabitants of the
19 county reside within the corporate limits of the municipality, the
20 board of trustees of such special municipal separate school
21 district shall be chosen and selected in the manner provided by
22 subsection (1) of Section 37-7-203, and all of the provisions
23 thereof shall be fully applicable in all respects to the selection
24 and constitution of such board of trustees.

25 (2) (a) Notwithstanding any other provision of law to the
26 contrary, beginning at the special election in November 2000, the
27 board of trustees of any special municipal separate school
28 district situated within a county bordering on the Mississippi
29 River and wherein U.S. Highways 61 and 84 intersect, shall be
30 elected in the manner prescribed in this section.

31 (b) On the first Tuesday after the first Monday in

32 November 2000, an election shall be held in the municipal separate
33 school district described in paragraph (a) of this subsection at
34 the same time as the Presidential election is held, for the
35 purpose of electing the members of the boards of trustees of the
36 municipal separate school district described in Section ____ . All
37 members of the board of trustees of the district described in
38 paragraph (a) of this subsection shall take office on January 1,
39 2001, and shall serve until January 1, 2004. On the first Tuesday
40 after the first Monday in November 2004 and every four (4) years
41 thereafter the board of trustees shall be elected for a term of
42 four (4) years. The five (5) members of the board of trustees of
43 the school district shall be elected from five (5) special trustee
44 election districts by the qualified electors of the district, as
45 provided in this subsection. The governing authorities of the
46 municipality shall separate the municipal separate school
47 district, including added territory, into five (5) special trustee
48 election districts which shall be the same as the board of
49 supervisors district, as established in Section 19-3-1. The
50 municipal governing authority shall place upon its minutes the
51 boundaries determined for the new five (5) trustee election
52 districts. The municipal governing authority shall thereafter
53 publish the same in a newspaper of general circulation within the
54 school district for at least three (3) consecutive weeks; and
55 after having given notice of publication and recording the same
56 upon the minutes of the municipal governing authority, the new
57 district lines shall thereafter be effective. All incumbent
58 trustees holding office at the time of the creation of the trustee
59 election districts shall continue holding their respective
60 offices, provided they reside within the new district, through
61 December 31, 2000. Their successors shall be elected from the new
62 trustee election districts constituted in this section in the
63 manner provided for in this section.

64 (2) Candidates for the board of trustees of the district
65 described in paragraph (a) of this subsection shall file their

66 intent to be a candidate with the proper officials no later than
67 5:00 p.m. on March 1 in November 2000 and no later than 5:00 p.m.
68 on March 1 in 2003 and every four (4) years thereafter. The
69 candidates shall pay to the proper officials the sum of Fifteen
70 Dollars (\$15.00).

71 (3) (a) The board of trustees for the district described in
72 paragraph (a) of this subsection shall be nonpartisan offices and
73 a candidate for election thereto is prohibited from campaigning or
74 qualifying for the office based on party affiliation.

75 (b) The names of the candidates for the board of
76 trustees of the district described in paragraph (a) of this
77 subsection which appear on the ballot at the special election in
78 2000 and in the general election in 2003 and every four (4) years
79 thereafter shall be grouped together on a separate portion of the
80 ballot, clearly identified as a nonpartisan board of trustees
81 election.

82 (c) The names of all candidates for the board of
83 trustees of the district described in paragraph (a) of this
84 subsection shall be listed in alphabetical order on any ballot and
85 no reference to political party affiliation shall appear on any
86 ballot with respect to the nonpartisan board of trustees offices.

87 (3) If two (2) or more candidates qualify for the office of
88 board of trustees in the district described in subsection (2)(a)
89 of this section, the names of those candidates shall be placed on
90 the ballot. The candidate with the highest number of votes shall
91 be declared elected. Any tie votes in the election which must be
92 resolved in order to determine who is elected shall be resolved in
93 the manner prescribed by Section 23-15-601.

94 (4) In any election for the board of trustees of the
95 district described in subsection (2)(a) of this section, all
96 qualified electors, regardless of party affiliation or lack
97 thereof, shall be qualified to vote for candidates for nomination
98 for board of trustees.

99 (5) Vacancies in the membership of the board of trustees of

100 the district described in subsection (2)(a) shall be filled by
101 appointment, within sixty (60) days after the vacancy occurs, by
102 the governing authorities of the municipality. The appointee
103 shall be selected from the qualified electors of the district in
104 which the vacancy occurs. The president of the municipal
105 governing authority shall certify to the Secretary of State the
106 fact of the appointment, and the Governor shall commission the
107 person appointed; and if the unexpired term is longer than six (6)
108 months, the appointee shall serve until a successor is elected at
109 the next special election, unless the vacancy occurs ninety (90)
110 days before the general election in a year in which an election
111 would normally be held for that office as provided by law, in
112 which case the person appointed shall serve the unexpired portion
113 of the term. The vacancies shall be filled for the unexpired term
114 by the qualified electors at the next regular special election day
115 occurring more than ninety (90) days after the occurrence of the
116 vacancy. The president of the municipal governing authority,
117 within ten (10) days after the happening of the vacancy, shall
118 make an order, in writing, directed to the commissioners of
119 election, commanding an election to be held on the next regular
120 special election day to fill the vacancy. The election
121 commissioners shall require each candidate to qualify at least
122 sixty (60) days before the date of the election, and shall give a
123 certificate of election to the person elected, and shall return to
124 the Secretary of State a copy of the order of holding the election
125 and the results of the election, certified by the president of the
126 municipal governing authority. The election shall be held in the
127 manner provided for in this section. The Governor shall
128 commission the person elected.

129 However, where only one (1) person has qualified with the
130 commissioners of election to be a candidate within the time
131 provided by law, the commissioners of election shall certify to
132 the municipal governing authority that there is but one (1)
133 candidate. The municipal governing authority shall dispense with

134 the election and shall appoint the certified candidate to fill the
135 unexpired term. The president of the municipal governing
136 authority shall certify to the Secretary of State the candidate so
137 appointed to serve in the office and the Governor shall commission
138 the candidate. If no person has qualified at least sixty (60)
139 days before the date of the election, the commissioners of
140 election shall certify that fact to the municipal governing
141 authority, which shall dispense with the election and fill the
142 vacancy by appointment. The president of the municipal governing
143 authority shall certify to the Secretary of State the fact of the
144 appointment, and the Governor shall commission the appointed
145 person.

146 SECTION 2. Section 23-15-193, Mississippi Code of 1972, is
147 amended as follows:

148 23-15-193. At the election in 1995, and every four (4) years
149 thereafter, there shall be elected a Governor, Lieutenant
150 Governor, Secretary of State, Auditor of Public Accounts, State
151 Treasurer, Attorney General, three (3) public service
152 commissioners, three (3) Mississippi transportation commissioners,
153 Commissioner of Insurance, Commissioner of Agriculture and
154 Commerce, Senators and members of the House of Representatives in
155 the Legislature, district attorneys for the several districts,
156 clerks of the circuit and chancery courts of the several counties,
157 as well as sheriffs, coroners, assessors, surveyors and members of
158 the boards of supervisors, justice court judges, constables, and
159 the board of trustees of the special municipal school district as
160 described in Section 37-7-703(2)(a), and all other officers to be
161 elected by the people at the general state election. All such
162 officers shall hold their offices for a term of four (4) years,
163 and until their successors are elected and qualified. The state
164 officers shall be elected in the manner prescribed in Section 140
165 of the Constitution.

166 SECTION 3. Section 37-7-705, Mississippi Code of 1972, is
167 amended as follows:

168 37-7-705. Except as provided in Section 37-7-703(2), in all
169 such special municipal separate school districts which may be so
170 organized, reorganized or reconstituted to embrace the entire
171 county in which the majority of the inhabitants of the county
172 reside outside the corporate limits of the municipality, the board
173 of trustees of such district shall be constituted in accordance
174 with the provisions of Sections 37-7-707 through 37-7-711, unless
175 the governing authorities of the municipality and of the county
176 shall have provided for one (1) of the alternative methods of
177 organization as provided by Sections 37-7-715 and 37-7-717.

178 SECTION 4. Section 37-7-707, Mississippi Code of 1972, is
179 amended as follows:

180 37-7-707. Except as provided in Section 37-7-703(2), in all
181 such special municipal separate school districts which may be so
182 organized, reorganized or reconstituted to embrace the entire
183 county in which the majority of the inhabitants of the county
184 reside outside the corporate limits of the municipality, the board
185 of trustees of such district shall be composed of five (5)
186 members, one (1) of whom shall be a resident qualified elector of
187 each supervisors district of the county. Said trustees shall be
188 elected from the county at large by the qualified electors of the
189 county at the first regular general election following the
190 approval by the State Educational Finance Commission of the
191 organization of such district. Such trustees shall take office on
192 the first Monday of January following their election.

193 At such election the members of the said board from
194 supervisors districts one (1) and five (5) shall be elected for a
195 term of six (6) years, the members from districts three (3) and
196 four (4) shall be elected for a term of four (4) years, and the
197 members from district two (2) shall be elected for a term of two
198 (2) years. Thereafter members shall be elected at regular general
199 elections as vacancies occur for terms of six (6) years each and
200 shall take office on the first Monday of January after their
201 election.

202 SECTION 5. Section 37-7-709, Mississippi Code of 1972, is
203 amended as follows:

204 37-7-709. Except as provided in Section 37-7-703(2), in all
205 such special municipal separate school districts which may be so
206 organized, reorganized or reconstituted to embrace the entire
207 county in which the majority of the inhabitants of the county
208 reside outside the corporate limits of the municipality, all
209 vacancies which may occur during the term of office shall be
210 filled by appointment by the remaining members of the board of
211 trustees, such appointee to have the same qualifications as other
212 members of the board and to reside in the same supervisors
213 district as the former member whose death, removal or resignation
214 caused the vacancy. Such appointment shall be made within thirty
215 (30) days after the vacancy occurs. The person so appointed shall
216 serve only until the first Monday of January following the next
217 regular general election after such appointment and, at the
218 regular general election next preceding such first Monday in
219 January, a person shall be elected for the remainder of the
220 unexpired term at the same time and in the same manner as a
221 trustee is elected for the full term next expiring, and such
222 person shall take office on said first Monday of January.

223 SECTION 6. Section 37-7-711, Mississippi Code of 1972, is
224 amended as follows:

225 37-7-711. Except as provided in Section 37-7-703(2), in all
226 such special municipal separate school districts which may be so
227 organized, reorganized or reconstituted to embrace the entire
228 county in which the majority of the inhabitants of the county
229 reside outside the corporate limits of the municipality, the name
230 of any qualified elector who is a candidate for the board of
231 trustees of such special municipal separate school district,
232 whether such person be a candidate for an unexpired term or for a
233 full term, shall be placed on the ballot used in the elections,
234 provided that the candidate files with the county election
235 commissioners, not more than ninety (90) days and not less than

236 thirty (30) days prior to the date of such general election, a
237 petition of nomination signed by not less than one hundred fifty
238 (150) qualified electors of the county. The candidate in each
239 election who receives the highest number of votes cast in the
240 election shall be declared to have been elected.

241 SECTION 7. Section 37-7-713, Mississippi Code of 1972, is
242 amended as follows:

243 37-7-713. Except as provided in Section 37-7-703(2), in all
244 special municipal separate school districts where the district
245 embraces less than the entire area of the county and where the
246 majority of the educable children of such district reside outside
247 the limits of the municipality, unless the governing authorities
248 of the municipality and the county provide for one (1) of the
249 alternative methods of organization as set out in Sections
250 37-7-715 and 37-7-717, the said special municipal separate school
251 district shall be governed by a board of trustees consisting of
252 five (5) members, to be elected by the qualified electors of such
253 municipal separate school district from the district at large in
254 the manner provided by Sections 37-7-209 through 37-7-219, and all
255 duties imposed upon the county superintendent of education by said
256 sections with reference to such elections shall be imposed upon
257 and performed by the superintendent of the municipal separate
258 school district. However, the first board of trustees of such
259 special municipal separate school district shall be appointed in
260 the following manner. The governing authorities of the
261 municipality shall appoint three (3) trustees, and such
262 appointments shall be made so that one (1) trustee shall be
263 appointed to serve until the first Saturday of March following
264 such appointment, one (1) for two (2) years longer, and one (1)
265 for four (4) years longer. The board of education of the county
266 shall appoint two (2) trustees, such appointments to be made so
267 that one (1) trustee shall be appointed to serve until the first
268 Saturday of March of the second year following such appointment,
269 and one (1) trustee for two (2) years longer. After such original

270 appointments the trustees of such a special municipal separate
271 school district shall be elected for a term of five (5) years, as
272 herein provided. All such members of said board of trustees shall
273 be residents and qualified electors of such school district. All
274 vacancies which may occur during a term of office shall be filled
275 by appointment by the remaining members of the board of trustees,
276 such appointee to have the same qualifications as other members of
277 the board. Such appointment shall be made within thirty (30) days
278 after the vacancy occurs. The person so appointed shall serve
279 only until his successor shall have qualified. The successor to
280 serve the remainder of the unexpired term shall be elected on the
281 first Saturday of March next following the occurrence of such
282 vacancy in the same manner as provided for by Sections 37-7-209
283 through 37-7-219.

284 SECTION 8. Section 37-7-715, Mississippi Code of 1972, is
285 amended as follows:

286 37-7-715. Except as provided in Section 37-7-703(2), upon
287 the organization, reorganization or reconstitution of any special
288 municipal separate school district, the board of supervisors of
289 the county wherein such special municipal separate school district
290 is located and the governing authorities of the municipality may,
291 by an order spread upon their minutes within sixty (60) days after
292 such organization, reorganization or reconstitution shall have
293 become final, expressing an agreement between both such governing
294 authorities, choose to constitute the board of such special
295 municipal separate school district under one (1) of the optional
296 methods of organization set out in Section 37-7-717. In the event
297 that both the governing authorities hereinabove referred to shall
298 enter such an order within said period, then the said board of
299 trustees shall be thereafter constituted and selected according to
300 the terms of such agreement, provided such agreement is in
301 conformity with the terms of Section 37-7-717. It is further
302 expressly provided that irregularities of a procedural nature in
303 the adoption of such orders shall not affect the validity of the

304 same or the validity of any acts of the board of trustees which
305 may be constituted by virtue thereof.

306 SECTION 9. Section 37-7-717, Mississippi Code of 1972, is
307 amended as follows:

308 37-7-717. Except as provided in Section 37-7-703(2), upon
309 complying with the terms and provisions of Section 37-7-715,
310 hereof, the board of supervisors of any county wherein there is a
311 special municipal separate school district and the governing
312 authorities of the municipality may provide that the board of
313 trustees of such special municipal separate school district shall
314 be organized and constituted in one (1) of the following manners:

315 (a) The said board may consist of five (5) members, all
316 of whom shall be bona fide residents of and qualified electors of
317 such school districts and who shall be appointed by either the
318 board of supervisors, the governing authorities of the
319 municipality, or by both of said bodies in such proportion as the
320 governing bodies may agree upon. The first such board shall be
321 appointed so that one (1) trustee shall be appointed to serve for
322 one (1) year, one (1) for one (1) year longer, one (1) for two (2)
323 years longer, one (1) for three (3) years longer, and one (1) for
324 four (4) years longer. Upon the expiration of each such original
325 term, each appointment shall be for five (5) years and shall be
326 made by the authority making the original appointment. In case of
327 the occurrence of a vacancy, the authority which made the
328 appointment of the trustee responsible for such vacancy shall
329 appoint a successor to serve the remainder of the term of such
330 trustee.

331 (b) In case of a special municipal separate school
332 district which embraces the entire county, the board of trustees
333 may be constituted and selected in accordance with the terms and
334 provisions of Sections 37-7-707 through 37-7-711, with the
335 exception that one (1) member of such board shall be elected by
336 each supervisors district and shall be a resident and qualified
337 elector of the district from which he is elected.

338 (c) In case of a special municipal separate school
339 district embracing the entire county, the board of trustees may be
340 constituted and selected in accordance with the terms and
341 provisions of Section 37-7-713.

342 SECTION 10. The Attorney General of the State of Mississippi
343 shall submit this act, immediately upon approval by the Governor,
344 or upon approval by the Legislature subsequent to a veto, to the
345 Attorney General of the United States or to the United States
346 District Court for the District of Columbia in accordance with the
347 provisions of the Voting Rights Act of 1965, as amended and
348 extended.

349 SECTION 11. This act shall take effect and be in force from
350 and after the date it is effectuated under Section 5 of the Voting
351 Rights Act of 1965, as amended and extended, or January 1, 2000,
352 whichever date is later.