HOUSE BILL NO. 401

AN ACT TO AMEND SECTION 37-7-203, MISSISSIPPI CODE OF 1972, TO DECREASE THE PERCENTAGE OF STUDENTS RESIDING IN THE ADDED TERRITORY OF A MUNICIPAL SEPARATE SCHOOL DISTRICT REQUIRED FOR THE ELECTION OF A SCHOOL BOARD MEMBER FROM THE ADDED TERRITORY; TO AMEND SECTION 37-15-31, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE TRANSFER OF STUDENTS RESIDING IN THE ADDED TERRITORY OF A MUNICIPAL SCHOOL DISTRICT TO THE SCHOOL DISTRICT ADJACENT TO THE ADDED TERRITORY WHEN THE BOARD OF TRUSTEES OF THE MUNICIPAL SCHOOL DISTRICT DOES NOT HAVE A MEMBER FROM THE ADDED TERRITORY; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 37-7-203, Mississippi Code of 1972, is amended as follows:

37-7-203. (1) The boards of trustees of all municipal separate school districts created under this chapter, either with or without added territory, shall consist of five (5) members, each to be chosen for a term of five (5) years, but chosen so that the term of office of one (1) member shall expire each year. If the added territory of a municipal separate school district furnishes one percent (1%) or more of the pupils enrolled in the schools of such district, then at least one (1) member of the board of trustees of such school district shall be a resident of the added territory outside the corporate limits. If the added territory of a municipal separate school district furnishes thirty percent (30%) or more of the pupils enrolled in the schools of such district, then at least two (2) members of the board of trustees of such school district shall be residents of the added territory outside the corporate limits. If the added territory of a municipal separate school district in a county in which Mississippi Highways 8 and 15 intersect furnishes thirty percent (30%) or more of the pupils enrolled in the schools of such
district, then the five (5) members of the board of trustees of
such school district shall be elected at large from such school
district for a term of five (5) years each except that the two (2)
elected trustees presently serving on such board shall continue to
serve for their respective terms of office. The three (3)
appointed trustees presently serving on such board shall continue
to serve until their successors are elected in March of 1975 in
the manner provided for in Section 37-7-215. At such election,
one (1) trustee shall be elected for a term of two (2) years, one
(1) for a term of three (3) years and one (1) for a term of five
(5) years. Subsequent terms for each successor trustee shall be
for five (5) years. If one (1) of two (2) municipal separate
school districts located in any county with two (2) judicial
districts, District 1 being comprised of Supervisors Districts 1,
2, 4 and 5, and District 2 being comprised of Supervisors District
3, with added territory embraces three (3) full supervisors
districts of a county, one (1) trustee shall be elected from each
of the three (3) supervisors districts outside the corporate
limits of the municipality. If the territory of a municipal
separate school district located in any county with two (2)
judicial districts, District 1 being comprised of Supervisors
Districts 1, 2, 4 and 5, and District 2 being comprised of
Supervisors District 3, with added territory embraces four (4)
full supervisors districts in the county, and in any county in
which a municipal separate school district embraces the entire
county in which Highways 14 and 15 intersect, one (1) trustee
shall be elected from each supervisors district.

Except as otherwise provided herein, the trustees of such a
municipal separate school district shall be elected by a majority
of the governing authorities of the municipality at the first
meeting of the governing authorities held in the month of February
of each year, and the term of office of the member so elected
shall commence on the first Saturday of March following. In the
in the case of a member of the board of trustees who is required to come from the added territory outside the corporate limits as is above provided, such member of the board of trustees shall be elected by the qualified electors of the school district residing in such added territory outside the corporate limits at the same time and in the same manner as is otherwise provided in this article for the election of trustees of school districts other than municipal separate school districts.

If a portion of a county school district is reconstituted, in the manner provided by law, into a municipal separate school district with added territory and if the trustees to be elected from the added territory are requested to be elected from separate election districts within the added territory, instead of elected at-large, by the Attorney General of the United States as a result of and pursuant to preclearance under Section 5 of the Voting Rights Act of 1965 as amended and extended, and if the added territory of a municipal separate school district of a municipality furnishes thirty percent (30%) or more of the pupils enrolled in the schools of such district, then two (2) members of the board of trustees shall be residents of the added territory outside the corporate limits of such municipality and shall be elected from special trustee election districts by the qualified electors thereof as herein provided. The governing authorities of such municipality shall apportion the added territory into two (2) special trustee election districts as nearly as possible according to population and other factors heretofore pronounced by the courts. The governing authorities of such municipality shall thereafter publish the same in a newspaper of general circulation within the school district for at least two (2) consecutive weeks; and after having given notice of publication and recording the same upon the minutes of the governing authorities, the new district lines shall thereafter be effective. Any person elected from the new trustee election districts constituted herein shall
be elected in the manner provided for in Section 37-7-215 for a term of five (5) years. Any vacancy in the office of a trustee elected from such trustee election district, whether occasioned by redistricting or by other cause, shall be filled by appointment of the governing authorities of the municipality, provided that the person so appointed shall serve only until the first Saturday of March following his appointment, at which time a person shall be elected for the remainder of the unexpired term in the manner provided in Section 37-7-215.

In any county organizing a countywide municipal separate school district after January 1, 1965, the trustees thereof to be elected from outside the municipality, such trustees shall be elected by the board of supervisors of such county, and the superintendent of such school district shall have authority to pay out and distribute the funds of said district. If a municipal separate school district should occupy territory in a county other than that in which the municipality is located and fifteen percent (15%) or more of the pupils enrolled in the schools of such district shall come from the territory of the district in the county other than that in which the municipality is located, the territory of such county in which the municipality is not located shall be entitled to one (1) member on the board of trustees of such school district. The trustee shall be a resident of the territory of that part of the district lying in the county in which the municipality is not located and shall be elected by the qualified electors of the territory of such county at the same time and in the same manner as is provided for the election of trustees of school districts other than municipal separate school districts having territory in two (2) or more counties.

All vacancies shall be filled for the unexpired terms by appointment of the governing authorities of the municipality; except that in the case of the trustees coming from the added territory outside the corporate limits, the person so appointed...
shall serve only until the first Saturday of March following his appointment, at which time a person shall be elected for the remainder of the unexpired term in the manner otherwise provided herein.

No person who is a member of such governing body, or who is an employee of the municipality, or who is a member of the county board of education, or who is a trustee of any public, private or sectarian school or college located in the county, inclusive of the municipal separate school district, or who is a teacher in or a trustee of the school district, shall be eligible for appointment to the board of trustees.

(2) In counties of less than fifteen thousand (15,000) people having a municipal separate school district with added territory which embraces all the territory of a county, one (1) or more trustees of such district shall be nominated from each supervisors district upon petition of fifty (50) qualified electors of the district, or twenty percent (20%) of the qualified electors of such district, whichever number shall be smaller, and shall be elected by a plurality of the vote of the qualified electors of the county. One (1) trustee so elected shall reside in each supervisors district of the county. In such counties embraced entirely by a municipal separate school district there shall be no county board of education after the formation of such district and the county superintendent of education shall act as superintendent of schools of the district and shall be appointed by the board of trustees of the district, and the provisions of subsection (1) of this section and the first paragraph of Section 37-7-211 shall not apply to such districts.

SECTION 2. Section 37-15-31, Mississippi Code of 1972, is amended as follows:

37-15-31. (1) (a) Except as provided in subsections (2) through (5) of this section, upon the petition in writing of a parent or guardian resident of the school district of an
individual student filed or lodged with the president or secretary
of the school board of a school district in which the pupil has
been enrolled or is qualified to be enrolled as a student under
Section 37-15-9, or upon the aforesaid petition or the initiative
of the school board of a school district as to the transfer of a
grade or grades, individual students living in one school district
or a grade or grades of a school within the districts may be
legally transferred to another school district, by the mutual
consent of the school boards of all school districts concerned,
which consent must be given in writing and spread upon the minutes
of such boards.

(b) The school board of the transferring school
district to which such petition may be addressed shall act thereon
not later than its next regular meeting subsequent to the filing
or lodging of the petition, and a failure to act within that time
shall constitute a rejection of such request. The school board of
the other school district involved (the transferee board) shall
act on such request for transfer as soon as possible after the
transferor board shall have approved or rejected such transfer and
no later than the next regular meeting of the transferee
board, and a failure of such transferee board to act within
such time shall constitute a rejection of such request. If such a
transfer is approved by the transferee board, then such
decision shall be final. If such a transfer should be refused by
the school board of either school district, then such
decision shall be final.

(c) Any legal guardianship formed for the purpose of
establishing residency for school district attendance purposes
shall not be recognized by the affected school board.

(2) (a) Upon the petition in writing of any parent or
guardian who is a resident of Mississippi and is an instructional
or licensed employee of a school district, but not a resident of
such district, the school board of the employer school district shall consent to the transfer of such employee's dependent school-age children to its district and shall spread the same upon the minutes of the board. Upon the petition in writing of any parent or guardian who is not a resident of Mississippi and on January 1, 1993, is an instructional or licensed employee of a school district in Mississippi, the school board of the employer school district shall consent to the transfer of such employee's dependent school-age children to its district and shall spread the same upon the minutes of the board.

(b) The school board of any school district, in its discretion, may adopt a uniform policy to allow the enrollment and attendance of the dependent children of noninstructional and nonlicensed employees, who are residents of Mississippi but are not residents of their district. Such policy shall be based upon the employment needs of the district, implemented according to job classification groups and renewed each school year.

(c) The employer transferee school district shall notify in writing the school district from which the pupil or pupils are transferring, and the school board of the transferor school district shall spread the same upon its minutes.

(d) Any such agreement by school boards for the legal transfer of a student shall include a provision providing for the transportation of the student. In the absence of such a provision the responsibility for transporting the student to the transferee school district shall be that of the parent or guardian.

(e) Any school district which accepts a student under the provisions of this subsection shall not assess any tuition fees upon such transferring student in accordance with the provisions of Section 37-19-27.

(3) Upon the petition in writing of any parent or legal guardian of a school-age child who is a resident of an adjacent school district residing in the geographical situation described...
in Section 37-15-29(3), the school board of the school district
operating the school located in closer proximity to the residence
of the child shall consent to the transfer of the child to its
district, and shall spread the same upon the minutes of the board.
Any such agreement by school boards for the legal transfer of a
student under this subsection shall include a provision for the
transportation of the student by either the transferor or the
transferee school district. In the event that either the school
board of the transferee or the transferor school district shall
object to the transfer, it shall have the right to appeal to the
State Board of Education whose decision shall be final. However,
if the school boards agreeing on the legal transfer of any student
shall fail to agree on which district shall provide
transportation, the responsibility for transporting the student to
the transferee school district shall be that of the parent or
guardian.

(4) Upon the petition in writing of any parent or legal
guardian of a school-age child who was lawfully transferred to
another school district prior to July 1, 1992, as described in
Section 37-15-29(4), the school board of the transferee school
district shall consent to the transfer of such child and the
transfer of any school-age brother and sister of such child to its
district, and shall spread the same upon the minutes of the board.

(5) If the board of trustees of a municipal separate school
district with added territory does not have a member who is a
resident of the added territory outside the corporate limits, upon
the petition in writing of any parent or legal guardian of a
school-age child who is a resident of the added territory outside
the corporate limits, the board of trustees of the municipal
separate school district and the school board of the school
district adjacent to the added territory shall consent to the
transfer of the child from the municipal separate school district
to the adjacent school district. The agreement must be spread
upon the minutes of the board of trustees of the municipal separate school district and the school board of the adjacent school district. The agreement must provide for the transportation of the student or may provide, as an alternative, that the parent or legal guardian shall be responsible for transporting the student to the adjacent school district. Any school district that accepts a student under this subsection may not assess any tuition fees against the transferring student.

The board of trustees of the municipal separate school district and the school board of the adjacent school district shall forward a certified copy of the agreement to the respective levying authority for each school district, as defined in Section 37-57-1. Upon receipt of the agreement, the levying authorities shall adjust the tax levy for school district purposes assessed against the parent or legal guardian of the transferred student so that the parent or legal guardian is not assessed any taxes levied on behalf of the school district from which the student has transferred.

SECTION 3. This act shall take effect and be in force from and after July 1, 2001.