

By: Senator(s) Harden

To: Education; Elections

SENATE BILL NO. 2864

1 AN ACT TO AMEND SECTIONS 37-5-1, 37-5-18, 37-7-203 AND
2 37-7-207, MISSISSIPPI CODE OF 1972, TO AUTHORIZE LOCAL SCHOOL
3 BOARDS TO REAPPORTION THEIR RESPECTIVE ELECTION DISTRICTS; AND FOR
4 RELATED PURPOSES.

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

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

8 37-5-1. (1) There is hereby established a county board of
9 education in each county of the State of Mississippi. Said county
10 board of education shall consist of five (5) members, one (1) of
11 which, subject to the further provisions of this chapter and
12 except as is otherwise provided in Section 37-5-1(2), shall be
13 elected by the qualified electors of each board of education
14 district of the county. Except as is otherwise provided in
15 Section 37-5-3, each member so elected shall be a resident and
16 qualified elector of the district from which he is elected.

17 (2) * * * The county board of education shall apportion the
18 county school district into five (5) single member board of
19 education districts. The county board of education shall place
20 upon its minutes the boundaries determined for the new five (5)
21 board of education districts. The board of education of said
22 county shall thereafter publish the same in some newspaper of
23 general circulation within said county for at least three (3)
24 consecutive weeks and after having given notice of publication and
25 recording the same upon the minutes of the board of education of
26 said county, said new district lines will thereafter be effective.
27 The board of education of said county shall reapportion the board
28 of education districts in accordance with the procedure described



herein for the original apportionment of districts as soon as practicable after the results of the 2000 decennial census are published and as soon as practicable after every decennial census thereafter.

(3) In counties where the office of "administrative superintendent" as defined in Section 37-6-3, Mississippi Code of 1972, has been abolished, there shall be no county board of education.

SECTION 2. Section 37-5-18, Mississippi Code of 1972, is amended as follows:

37-5-18. In any county bordering on the Mississippi Sound and having therein at least four (4) municipal separate school districts, each member of the county board of education established by Section 37-5-1 for such county shall be elected from and shall be a resident and qualified elector in a special district determined in the following manner:

The board of education of such a county shall apportion the county into five (5) board of education districts in the territory outside the municipal separate school districts and these board of education districts shall be divided as nearly equal as possible according to population, incumbency and other factors heretofore pronounced by the courts. The board of education shall place upon its minutes the boundaries determined for the new five (5) board of education districts. The board of education of said county shall thereafter publish the same in some newspaper of general circulation within said county for at least three (3) consecutive weeks and after having given notice of publication and recording the same upon the minutes of the board of education of said county, said new district lines will thereafter be effective.

All incumbents now holding office within the district as presently constituted shall continue holding their respective offices provided they reside within the new district for the remainder of the term of office to which they have heretofore been



62 elected and all members from the respective district shall be
63 elected from the new board of education district constituted as
64 herein provided in the same manner provided by law for the
65 election of members of the county board of education. Any
66 vacancies in the office, whether occasioned by redistricting or by
67 other cause, shall be filled in the manner presently provided by
68 law for the filling of vacancies.

69 **SECTION 3.** Section 37-7-203, Mississippi Code of 1972, is
70 amended as follows:

71 37-7-203. (1) The boards of trustees of all municipal
72 separate school districts created under the provisions of Article
73 1 of this chapter, either with or without added territory, shall
74 consist of five (5) members, each to be chosen for a term of five
75 (5) years, but so chosen that the term of office of one (1) member
76 shall expire each year. In the event the added territory of a
77 municipal separate school district furnishes fifteen percent (15%)
78 or more of the pupils enrolled in the schools of such district,
79 then at least one (1) member of the board of trustees of such
80 school district shall be a resident of the added territory outside
81 the corporate limits. In the event the added territory of a
82 municipal separate school district furnishes thirty percent (30%)
83 or more of the pupils enrolled in the schools of such district,
84 then not more than two (2) members of the board of trustees of
85 such school district shall be residents of the added territory
86 outside the corporate limits. In the event the added territory of
87 a municipal separate school district in a county in which
88 Mississippi Highways 8 and 15 intersect furnishes thirty percent
89 (30%) or more of the pupils enrolled in the schools of such
90 district, then the five (5) members of the board of trustees of
91 such school district shall be elected at large from such school
92 district for a term of five (5) years each except that the two (2)
93 elected trustees presently serving on such board shall continue to
94 serve for their respective terms of office. The three (3)



95 appointed trustees presently serving on such board shall continue
96 to serve until their successors are elected in March of 1975 in
97 the manner provided for in Section 37-7-215. At such election,
98 one (1) trustee shall be elected for a term of two (2) years, one
99 (1) for a term of three (3) years and one (1) for a term of five
100 (5) years. Subsequent terms for each successor trustee shall be
101 for five (5) years. In the event one (1) of two (2) municipal
102 separate school districts located in any county with two (2)
103 judicial districts, District 1 being comprised of Supervisors
104 Districts 1, 2, 4 and 5, and District 2 being comprised of
105 Supervisors District 3, with added territory embraces three (3)
106 full supervisors districts of a county, one (1) trustee shall be
107 elected from each of the three (3) supervisors districts outside
108 the corporate limits of the municipality. In the further event
109 that the territory of a municipal separate school district located
110 in any county with two (2) judicial districts, District 1 being
111 comprised of Supervisors Districts 1, 2, 4 and 5, and District 2
112 being comprised of Supervisors District 3, with added territory
113 embraces four (4) full supervisors districts in the county, and in
114 any county in which a municipal separate school district embraces
115 the entire county in which Highways 14 and 15 intersect, one (1)
116 trustee shall be elected from each supervisors district.

117 Except as otherwise provided herein, the trustees of such a
118 municipal separate school district shall be elected by a majority
119 of the governing authorities of the municipality at the first
120 meeting of the governing authorities held in the month of February
121 of each year, and the term of office of the member so elected
122 shall commence on the first Saturday of March following. In the
123 case of a member of said board of trustees who is required to come
124 from the added territory outside the corporate limits as is above
125 provided, such member of the board of trustees shall be elected by
126 the qualified electors of the school district residing in such
127 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.

In the event that 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 in the event that 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 in the event 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 board of trustees of the school district 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 board of trustees of the school district shall thereafter publish the same in a newspaper of general circulation within said 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 board of trustees of the school district, said 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



161 the governing authorities of the municipality, provided that the
162 person so appointed shall serve only until the first Saturday of
163 March following his appointment, at which time a person shall be
164 elected for the remainder of the unexpired term in the manner
165 provided in Section 37-7-215.

166 In any county organizing a countywide municipal separate
167 school district after January 1, 1965, the trustees thereof to be
168 elected from outside the municipality, such trustees shall be
169 elected by the board of supervisors of such county, and the
170 superintendent of such school district shall have authority to pay
171 out and distribute the funds of said district. In the event a
172 municipal separate school district should occupy territory in a
173 county other than that in which the municipality is located and
174 fifteen percent (15%) or more of the pupils enrolled in the
175 schools of such district shall come from the territory of the
176 district in the county other than that in which the municipality
177 is located, the territory of such county in which the municipality
178 is not located shall be entitled to one (1) member on the board of
179 trustees of such school district. Said trustee shall be a
180 resident of the territory of that part of the district lying in
181 the county in which the municipality is not located and shall be
182 elected by the qualified electors of the territory of such county
183 at the same time and in the same manner as is provided for the
184 election of trustees of school districts other than municipal
185 separate school districts having territory in two (2) or more
186 counties.

187 All vacancies shall be filled for the unexpired terms by
188 appointment of the governing authorities of the municipality;
189 except that in the case of the trustees coming from the added
190 territory outside the corporate limits, the person so appointed
191 shall serve only until the first Saturday of March following his
192 appointment, at which time a person shall be elected for the



193 remainder of the unexpired term in the manner otherwise provided
194 herein.

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

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

219 **SECTION 4.** Section 37-7-207, Mississippi Code of 1972, is
220 amended as follows:

221 **[Until such time as Section 1 of Laws, 1990, ch. 567, is**
222 **effectuated under Section 5 of the Voting Rights Act of 1965, as**
223 **amended and extended, this section will read as follows:]**

224 37-7-207. (1) All school districts reconstituted or created
225 under the provisions of Article 1 of this chapter, and which lie



wholly within one (1) county, but not including municipal separate and countywide districts, shall be governed by a board of five (5) trustees. The first board of trustees of such districts shall be appointed by the county board of education, and the original appointments shall be so made that one (1) trustee shall be appointed to serve until the first Saturday of March following such appointments, one (1) for one (1) year longer, one (1) for two (2) years longer, one (1) for three (3) years longer, and one (1) for four (4) years longer. After such original appointments, the trustees of such school districts shall be elected by the qualified electors of such school districts in the manner provided for in Sections 37-7-223 through 37-7-229, with each trustee to be elected for a term of five (5) years. The five (5) members of the board of trustees of such consolidated school district shall be elected from special trustee election districts by the qualified electors thereof, as herein provided. * * * The board of trustees of any such consolidated school district * * * shall apportion the consolidated school district into five (5) special trustee election districts. The board of trustees of such school district shall place upon its minutes the boundaries determined for the new five (5) trustee election districts. The board of trustees shall thereafter publish the same in a newspaper of general circulation within said school district for at least three (3) consecutive weeks; and after having given notice of publication and recording the same upon the minutes of the board of trustees, said new district lines shall thereafter be effective.

On the first Tuesday after the first Monday in November, in any year in which any consolidated school district shall elect to utilize the authority to create single member election districts, an election shall be held in each such district in this state for the purpose of electing the board of trustees of such district. At said election the member of the said board from District One shall be elected for a term of one (1) year, the member from



District Two shall be elected for a term of two (2) years, the member from District Three shall be elected for a term of three (3) years, the member from District Four shall be elected for a term of four (4) years, and the member from District Five shall be elected for a term of five (5) years. Thereafter, members shall be elected at general elections as vacancies occur for terms of five (5) years each. Trustees elected from single member election districts as provided above shall otherwise be elected as provided for in Sections 37-7-223 through 37-7-229. All members of the said board of trustees shall take office on the first Monday of January following the date of their election. All vacancies which may occur during a term shall be filled by appointment of the consolidated school district trustees, but the person so appointed shall serve only until the next general election following such appointment, at which time a person shall be elected for the remainder of the unexpired term at the same time and in the same manner as a trustee is elected for the full term then expiring. The person so elected to the unexpired term shall take office immediately. Said appointee shall be selected from the qualified electors of the district in which the vacancy occurs.

(2) All school districts reconstituted and created under the provisions of Article 1 of this chapter, which embrace territory in two (2) or more counties, but not including municipal separate school districts, shall be governed by a board of five (5) trustees. In making the original appointments, the several county boards of education shall appoint the trustee or trustees to which the territory in such county is entitled, and, by agreement between the county boards concerned, one (1) person shall be appointed to serve until the first Saturday of March following, one (1) for one (1) year longer, one (1) for two (2) years longer, one (1) for three (3) years longer and one (1) for four (4) years longer. Thereafter, such trustees shall be elected as is provided for in Sections 37-7-223 through 37-7-229, for a term of five (5)



292 years. The five (5) members of the board of trustees of such line
293 consolidated school district shall be elected from special trustee
294 election districts by the qualified electors thereof, as herein
295 provided. * * * The existing board of trustees of such line
296 consolidated school district * * * shall apportion the line
297 consolidated school district into five (5) special trustee
298 election districts. The board of trustees shall place upon its
299 minutes the boundaries determined for the new five (5) trustee
300 election districts. The board of trustees shall thereafter
301 publish the same in a newspaper of general circulation within said
302 school district for at least three (3) consecutive weeks; and
303 after having given notice of publication and recording the same
304 upon the minutes of the board of trustees, said new district lines
305 shall thereafter be effective.

306 On the first Tuesday after the first Monday in November, in
307 any year in which any line consolidated school district shall
308 elect to utilize the authority to create single member election
309 districts, an election shall be held in each such district in this
310 state for the purpose of electing the board of trustees of such
311 district. At said election the member of the said board from
312 District One shall be elected for a term of one (1) year, the
313 member from District Two shall be elected for a term of two (2)
314 years, the member from District Three shall be elected for a term
315 of three (3) years, the member from District Four shall be elected
316 for a term of four (4) years, and the member from District Five
317 shall be elected for a term of five (5) years. Thereafter,
318 members shall be elected at general elections as vacancies occur
319 for terms of five (5) years each. Trustees elected from single
320 member election districts as provided above shall otherwise be
321 elected as provided for in Sections 37-7-223 through 37-7-229.
322 All members of the said board of trustees shall take office on the
323 first Monday of January following the date of their election. In
324 all elections, the trustee elected shall be a resident and



qualified elector of the district entitled to the representation upon the board, and he shall be elected only by the qualified electors of such district. All vacancies which may occur during a term of office shall be filled by appointment of the consolidated line school district trustees, but the person so appointed shall serve only until the next general election following such appointment, at which time a person shall be elected for the remainder of the unexpired term at the same time and in the same manner as the trustee is elected for the full term then expiring. The person so elected to the unexpired term shall take office immediately.

[From and after such time as Section 1 of Laws, 1990, ch. 567, is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended, this section will read as follows:]

37-7-207. (1) All school districts reconstituted or created under the provisions of Article 1 of this chapter, and which lie wholly within one (1) county, but not including municipal separate and countywide districts, shall be governed by a board of five (5) trustees. The first board of trustees of such districts shall be appointed by the county board of education, and the original appointments shall be so made that one (1) trustee shall be appointed to serve until the first Saturday of March following such appointments, one (1) for one (1) year longer, one (1) for two (2) years longer, one (1) for three (3) years longer, and one (1) for four (4) years longer. After such original appointments, the trustees of such school districts shall be elected by the qualified electors of such school districts in the manner provided for in Sections 37-7-223 through 37-7-229, Mississippi Code of 1972, with each trustee to be elected for a term of five (5) years. The five (5) members of the board of trustees of such consolidated school district may be elected from special trustee election districts by the qualified electors thereof, as herein provided. * * * The board of trustees of such consolidated school



358 district shall apportion the consolidated school district into
359 five (5) special trustee election districts. The board of
360 trustees of such consolidated school district shall place upon its
361 minutes the boundaries determined for the new five (5) trustee
362 election districts. The board of trustees shall thereafter
363 publish the same in a newspaper of general circulation within said
364 school district for at least three (3) consecutive weeks; and
365 after having given notice of publication and recording the same
366 upon the minutes of the board of trustees, said new district lines
367 shall thereafter be effective.

368 On the first Tuesday after the first Monday in November, in
369 any year in which any consolidated school district shall elect to
370 utilize the authority to create single member election districts,
371 an election shall be held in each such district in this state for
372 the purpose of electing the board of trustees of such district.
373 At said election the member of the said board from District One
374 shall be elected for a term of one (1) year, the member from
375 District Two shall be elected for a term of two (2) years, the
376 member from District Three shall be elected for a term of three
377 (3) years, the member from District Four shall be elected for a
378 term of four (4) years, and the member from District Five shall be
379 elected for a term of five (5) years. Thereafter, members shall
380 be elected at general elections as vacancies occur for terms of
381 five (5) years each. Trustees elected from single member election
382 districts as provided above shall otherwise be elected as provided
383 for in Sections 37-7-223 through 37-7-229, Mississippi Code of
384 1972. All members of the said board of trustees shall take office
385 on the first Monday of January following the date of their
386 election. All vacancies which may occur during a term shall be
387 filled by appointment of the consolidated school district
388 trustees, but the person so appointed shall serve only until the
389 next general election following such appointment, at which time a
390 person shall be elected for the remainder of the unexpired term at



391 the same time and in the same manner as a trustee is elected for
392 the full term then expiring. The person so elected to the
393 unexpired term shall take office immediately. Said appointee
394 shall be selected from the qualified electors of the district in
395 which the vacancy occurs.

396 (2) All school districts reconstituted and created under the
397 provisions of Article 1 of this chapter, which embrace territory
398 in two (2) or more counties, but not including municipal separate
399 school districts, shall be governed by a board of five (5)
400 trustees. In making the original appointments, the several county
401 boards of education shall appoint the trustee or trustees to which
402 the territory in such county is entitled, and, by agreement
403 between the county boards concerned, one (1) person shall be
404 appointed to serve until the first Saturday of March following
405 such appointments, one (1) for one (1) year longer, one (1) for
406 two (2) years longer, one (1) for three (3) years longer and one
407 (1) for four (4) years longer. Thereafter, such trustees shall be
408 elected as is provided for in Sections 37-7-223 through 37-7-229,
409 Mississippi Code of 1972, for a term of five (5) years. The five
410 (5) members of the board of trustees of such line consolidated
411 school district may be elected from special trustee election
412 districts by the qualified electors thereof, as herein
413 provided. * * * The board of trustees of any such line
414 consolidated school district * * * shall apportion the line
415 consolidated school district into five (5) special trustee
416 election districts. The board of trustees shall place upon its
417 minutes the boundaries determined for the new five (5) trustee
418 election districts. The board of trustees shall thereafter
419 publish the same in a newspaper of general circulation within said
420 school district for at least three (3) consecutive weeks; and
421 after having given notice of publication and recording the same
422 upon the minutes of the board of trustees, said new district lines
423 shall thereafter be effective.



On the first Tuesday after the first Monday in November, in any year in which any line consolidated school district shall elect to utilize the authority to create single member election districts, an election shall be held in each such district in this state for the purpose of electing the board of trustees of such district. At said election the member of the said board from District One shall be elected for a term of one (1) year, the member from District Two shall be elected for a term of two (2) years, the member from District Three shall be elected for a term of three (3) years, the member from District Four shall be elected for a term of four (4) years, and the member from District Five shall be elected for a term of five (5) years. Thereafter, members shall be elected at general elections as vacancies occur for terms of five (5) years each. Trustees elected from single member election districts as provided above shall otherwise be elected as provided for in Sections 37-7-223 through 37-7-229, Mississippi Code of 1972. All members of the said board of trustees shall take office on the first Monday of January following the date of their election. In all such elections, the trustee elected shall be a resident and qualified elector of the district entitled to the representation upon the board, and he shall be elected only by the qualified electors of such district. All vacancies which may occur during a term of office shall be filled by appointment of the consolidated line school district trustees, but the person so appointed shall serve only until the next general election following such appointment, at which time a person shall be elected for the remainder of the unexpired term at the same time and in the same manner as the trustee is elected for the full term then expiring. The person so elected to the unexpired term shall take office immediately.

SECTION 5. The Attorney General of the State of Mississippi shall submit this act, immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to the



457 Attorney General of the United States or to the United States
458 District Court for the District of Columbia in accordance with the
459 provisions of the Voting Rights Act of 1965, as amended and
460 extended.

461 **SECTION 6.** This act shall take effect and be in force from
462 and after the date it is effectuated under Section 5 of the Voting
463 Rights Act of 1965, as amended and extended.

