MISSISSIPPI LEGISLATURE
REGULAR SESSION 2003
By: Representative Ishee
To: Education; Apportionment and Elections

HOUSE BILL NO. 500

1 AN ACT TO AMEND SECTION 37-7-203, MISSISSIPPI CODE OF 1972,
2 TO CHANGE THE MONTH OF THE ELECTION OF ELECTED TRUSTEES OF
3 MUNICIPAL SEPARATE SCHOOL DISTRICTS FROM MARCH TO NOVEMBER AND TO
4 PROVIDE THAT THE ELECTED TRUSTEES SHALL SERVE FOR A TERM OF SIX
5 YEARS; TO AMEND SECTION 37-7-207, MISSISSIPPI CODE OF 1972, TO
6 PROVIDE THAT THE MEMBERS OF THE BOARDS OF TRUSTEES OF CONSOLIDATED
7 SCHOOL DISTRICTS AND LINE CONSOLIDATED SCHOOL DISTRICTS SHALL
8 SERVE FOR A TERM OF SIX YEARS; TO AMEND SECTIONS 37-7-209 THROUGH
9 37-7-229, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE
10 PROVISIONS OF THIS ACT; TO AMEND SECTION 37-7-713, MISSISSIPPI
11 CODE OF 1972, TO CHANGE THE MONTH OF THE ELECTION OF ELECTED
12 TRUSTEES OF SPECIAL MUNICIPAL SEPARATE SCHOOL DISTRICTS EMBRACING
13 LESS THAN AN ENTIRE COUNTY FROM MARCH TO NOVEMBER AND TO PROVIDE
14 THAT THE ELECTED TRUSTEES SHALL SERVE FOR A TERM OF SIX YEARS; AND
15 FOR RELATED PURPOSES.

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

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

19 37-7-203. (1) The boards of trustees of all municipal
20 separate school districts created under * * * this chapter, either
21 with or without added territory, shall consist of five (5)
22 members * * *. In the event the added territory of a municipal
23 separate school district furnishes fifteen percent (15%) or more
24 of the pupils enrolled in the schools of such district, then at
25 least one (1) member of the board of trustees of such school
26 district shall be a resident of the added territory outside the
27 corporate limits. In the event the added territory of a municipal
28 separate school district furnishes thirty percent (30%) or more of
29 the pupils enrolled in the schools of such district, then * * *
30 two (2) members of the board of trustees of such school district
31 shall be residents of the added territory outside the corporate
32 limits. In the event the added territory of a municipal separate
33 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 six (6) years each. However, in order to provide for an orderly transition, the terms of all members of the board of trustees serving on July 1, 2003, shall expire on the first Monday of January 2004, on which date their successors duly elected in the November 2003 election shall assume the duties of office. In the event 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 supervisors districts outside the corporate limits of the municipality. In the further event that 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 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. The term of office of each member of the board of trustees selected by the governing authorities of the municipality shall be for five (5)
years, and such members shall be chosen so that the terms of those 

members expire in different years. 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 * * * in the same manner as is * * * 

provided for in Sections 37-7-211 through 37-7-219.

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 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 board of trustees of the school district, 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 Sections 37-7-211 through 37-7-219 for a term of six (6) years. However, in order to provide for an orderly transition, the terms of all members of the board of trustees serving on July 1, 2004, shall expire on the first Monday of January 2005, on which date their successors duly elected in the November 2004 election shall assume the duties of office. 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 Tuesday after the first Monday of November 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 the district. In the event 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 provided for in Sections 37-7-211 through 37-7-219.

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 Tuesday after the first Monday of November following his appointment, at which time a person shall be elected for the remainder of the unexpired term in the manner otherwise provided in Section 37-7-215.

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 said 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 said district, or twenty percent (20%) of the qualified electors of said district, whichever number shall be smaller, and shall be elected by a plurality of the vote of the qualified electors of said 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 that 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 those districts.

SECTION 2. Section 37-7-207, Mississippi Code of 1972, is amended 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, with each trustee to be elected for a term of six (6) years. However, in order to provide for an orderly transition, the terms of all members of the board of trustees serving on July 1, 2004, shall expire on the first Monday of January 2005, on which date their successors duly elected in the November 2004 election shall assume the duties of office. 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 the 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, the new district lines shall thereafter be effective.

On the first Tuesday after the first Monday in November, in any odd-numbered year in any consolidated school district electing to utilize the authority to create single member election districts, an election shall be held for the purpose of electing the board of trustees of such district. At the election the members of the board shall be elected for a term of six (6) years. Thereafter, members shall be elected at general elections as vacancies occur for terms of six (6) years each.

However, in order to provide for an orderly transition, the terms of all members of the board of trustees serving on July 1, 2004, shall expire on the first Monday of January 2005, on which date their successors duly elected in the November 2004 election shall assume the duties of office. Trustees elected from single member election districts as provided above shall be elected as provided for in Sections 37-7-223 through 37-7-229. All members of the 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. The 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 3 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 six (6) years. However, in order to provide for an orderly transition, the terms of all members of the board of trustees serving on July 1, 2004, shall expire on the first Monday of January 2005, on which date their successors duly elected in the November 2004 election shall assume the duties of office. The five (5) members of the board of trustees of such line consolidated school district shall be elected from special trustee election districts by the qualified electors thereof, as herein provided. The existing board of trustees of such line consolidated school district shall apportion the line consolidated school district into five (5) special trustee election districts. The board of trustees 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 the 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, the new district lines shall thereafter be effective. Provided, however, that in any line consolidated school district encompassing two (2) or more counties created pursuant to Laws, 1953, Extraordinary
Session, Chapter 12, Section 8, in which, as a condition precedent to the creation of the district, each county belonging thereto was contractually guaranteed to always have at least one (1) representative on the board, in order that the condition precedent may be honored and guaranteed, in any year in which the board of trustees of such line consolidated school district does not have at least one (1) member from each county or part thereof forming such district, the board of trustees in such district shall be governed by a board of a sufficient number of trustees to fulfill this guarantee, five (5) of whom shall be elected from the five (5) special trustee election districts which shall be as nearly equal as possible and one (1) member trustee appointed at large from each county not having representation on the elected board. In such cases, the board of supervisors of each county shall make written agreement to guarantee the manner of appointment of at least one (1) representative from each county in the district, placing such written agreement on the minutes of each board of supervisors in each county.

On the first Tuesday after the first Monday in November, in any odd-numbered year in any line consolidated school district electing to utilize the authority to create single member election districts, an election shall be held for the purpose of electing the board of trustees of such district. At the election the members of the board shall be elected for a term of six (6) years. Thereafter, members shall be elected at general elections as vacancies occur for terms of six (6) years each. However, in order to provide for an orderly transition, the terms of all members of the board of trustees serving on July 1, 2004, shall expire on the first Monday of January 2005, on which date their successors duly elected in the November 2004 election shall assume the duties of office. Trustees elected from single member election districts as provided above shall be elected as provided for in Sections 37-7-223 through 37-7-229. All
members of the board of trustees shall take office on the first Monday of January following the date of their election. In 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.

SECTION 3. Section 37-7-209, Mississippi Code of 1972, is amended as follows:

37-7-209. All elections of trustees who are elected in municipal separate school districts under the provisions of subsection (1) of Section 37-7-203 shall be held and conducted in the manner and at the time provided for in Sections 37-7-211 through 37-7-219.

SECTION 4. Section 37-7-211, Mississippi Code of 1972, is amended as follows:

37-7-211. Any person otherwise eligible under the provisions of subsection (1) of Section 37-7-203 who desires to be a candidate for the office of trustee must qualify in the following manner in order to be considered for election. By 5:00 p.m. at least forty (40) days before the election, he shall file with the county election commissioners a petition signed by not less than twenty-five (25) qualified electors of the area represented by the office which he seeks, either for a full term or an unexpired term, as the case may be, and an affidavit by the
candidate offering for election stating his qualifications under the terms of Sections 37-7-201 and 37-7-203. The petition shall contain an affidavit certifying that all signatures are the personal signatures of each person whose name appears on the petition and that each person is a qualified elector.

Unless the petition and affidavit required above shall be filed by 5:00 p.m. not less than forty (40) days before the election, the name of the candidate shall not be considered in the election, and votes cast for any person who has failed to qualify shall not be counted in the election.

If after the time for candidates to file the petition and affidavit provided for herein there should be only one (1) person to qualify for the office of trustee, then no election or notice of election shall be necessary and such person shall, if otherwise qualified, be declared elected without opposition.

SECTION 5. Section 37-7-213, Mississippi Code of 1972, is amended as follows:

37-7-213. Notice of the election shall be given at least twenty-one (21) days before the election by the superintendent by posting a notice thereof in at least three (3) public places in the school district and upon the bulletin board of all school buildings in such school district. In addition thereto, notice shall be made by publication once in each week during three (3) successive weeks in a public newspaper of the county in which the election shall take place, if there is such a newspaper. Where there is no newspaper in the county, the notice shall be posted at the courthouse door of the county and published as above provided in a public newspaper in an adjoining county, or at the seat of government of the state. The period of publication shall be deemed completed at the end of twenty-one (21) days from the date of the first publication if three (3) publications have been made as hereinabove required. Such notice shall contain a statement of the time and place for the holding of the election, the number of
trustees to be elected, and whether the office is to be filled for a full term or for an unexpired term. In addition, the notice shall contain the names of the candidates for each position to be filled and the area to be represented by each. In addition thereto, the principal, teacher or superintendent of each school within such district shall announce the date, time, purpose and place of holding the election to the pupils at least three (3) times during the week immediately preceding same.

SECTION 6. Section 37-7-215, Mississippi Code of 1972, is amended as follows:

37-7-215.  ***
Beginning in 2004, all such elections of elected trustees in municipal separate school districts shall be held on the first Tuesday after the first Monday in November in the same manner as general state and county elections are held and conducted. In the event a runoff is necessary, such runoff shall be held two (2) weeks thereafter.  ***

SECTION 7. Section 37-7-217, Mississippi Code of 1972, is amended as follows:

37-7-217. The candidate who receives a majority of the votes cast, either for a full term or for an unexpired term, shall be declared elected by the county election commissioners. Any person elected to a full term shall assume the duties of his office on the first Monday of January of the year following the election. Any person elected under Section 37-7-215 for an unexpired term shall immediately assume the duties of his office *** for the remainder of the unexpired term ***. If a person does not receive a majority of the votes cast upon the first ballot, a runoff shall be held between the two (2) persons receiving the highest number of votes upon such first ballot *** two (2) weeks thereafter. ***
SECTION 8. Section 37-7-219, Mississippi Code of 1972, is amended as follows:

37-7-219. For the purpose of holding the election, it shall be the duty of the county election commissioners to prepare from the records in the office of the county registrar a list of the qualified electors of such school district who are eligible to participate in such election. Such list shall be furnished to the election managers in each precinct, together with the ballots and other election supplies.

For each day spent in carrying out the provisions of Sections 37-7-211 through 37-7-219, the county election commissioners shall be paid at the rate prescribed by law.

SECTION 9. Section 37-7-221, Mississippi Code of 1972, is amended as follows:

37-7-221. The election of elected school district trustees in consolidated school districts and consolidated line school districts shall be held in the manner provided for in Sections 37-7-223 through 37-7-229 and.

SECTION 10. Section 37-7-223, Mississippi Code of 1972, is amended as follows:

37-7-223. Beginning in 2004, all elections of elected school district trustees in consolidated school districts and consolidated line school districts shall be held on the first Tuesday after the first Monday in November of each year in the same manner as general state and county elections are held and conducted.

SECTION 11. Section 37-7-225, Mississippi Code of 1972, is amended as follows:

37-7-225. The county election commissioners shall place the name of any person eligible to hold the office of trustee on the ballot used in the election, provided that such candidate has filed with the county registrar, not more than ninety (90) days and by 5:00 p.m. not less than sixty (60) days before the date of
such election, a petition of nomination signed by not less than fifty (50) qualified electors of the school district or if the person seeks to represent a separate election district, of the appropriate election district. Where there are less than one hundred (100) qualified electors in the school district or the election district as the case may be, it shall only be required that the petition of nomination be signed by at least twenty percent (20%) of the qualified electors of such school district. If such person is a candidate for an unexpired term, he shall indicate the term for which he is a candidate in such petition; otherwise he shall be deemed to be a candidate for a full term. If, after the time for candidates to file the petition of nomination provided for herein, there is only one (1) person to qualify for the office of trustee, then no election or notice of election shall be necessary and such person shall, if otherwise qualified, be declared elected without opposition.

SECTION 12. Section 37-7-227, Mississippi Code of 1972, is amended as follows:

37-7-227. The county election commissioners shall indicate on the ballot which of the persons whose names appear thereon are candidates for a full term, and which of such persons, if any, are candidates for an unexpired term **. The candidate who receives a majority of the votes cast, either for a full term or for an unexpired term **, as indicated on the ballot, shall be declared elected. The person or persons elected to a full term shall assume the duties of ** office on the first Monday of January of the year following such election. The ** persons elected to an unexpired term shall assume office immediately. If no candidate for the office of trustee receives a majority of the votes cast at such election, a runoff shall be held in the same manner on the third Tuesday after the first Monday in November following such election between the two (2) candidates receiving the highest number of votes upon such first ballot.
SECTION 13. Section 37-7-229, Mississippi Code of 1972, is amended as follows:

37-7-229. For the purpose of holding such election, it shall be the duty of the county election commissioners to prepare from the records in the office of the county registrar a list of the qualified electors of the school district, or of the separate trustee election districts, in which such election is to be held who are eligible to participate in such election. Such list shall be furnished to the election managers in each precinct, together with the ballots and other election supplies.

In the event that any election precinct embraces parts of two (2) or more school districts, it shall be the duty of the county election commissioners to prepare from the records in the office of the county registrar separate lists of the qualified electors of each school district who reside in that precinct and who are eligible to participate in such election. The election commissioners shall furnish to the election managers in the precinct separate ballots and separate ballot boxes and separate voting lists for each school district.

For each day spent in carrying out the provisions of Sections 37-7-225 through 37-7-229, the county election commissioners shall be paid at the rate prescribed by law.

SECTION 14. Section 37-7-713, Mississippi Code of 1972, is amended as follows:

37-7-713. In all special municipal separate school districts where the district embraces less than the entire area of the county and where the majority of the educable children of such district reside outside the limits of the municipality, unless the governing authorities of the municipality and the county provide for one of the alternative methods of organization as set out in Sections 37-7-715 and 37-7-717, the special municipal separate school district shall be governed by a board of trustees consisting of five (5) members, to be elected by the qualified
electors of such municipal separate school district from the
district at large in the manner provided by Sections 37-7-209
through 37-7-219 ***. Beginning in 2004, the *** trustees of
such a special municipal separate school district shall be elected
for a term of six (6) years, as herein provided. All such members
of the board of trustees shall be residents and qualified electors
of such school district. All vacancies which may occur during a
term of office shall be filled by appointment by the remaining
members of the board of trustees, such appointee to have the same
qualifications as other members of the board. Such appointment
shall be made within thirty (30) days after the vacancy occurs.
The person so appointed shall serve only until his successor shall
have qualified. The successor to serve the remainder of the
unexpired term shall be elected on the first Tuesday after the
first Monday in November next following the occurrence of such
vacancy in the same manner as provided for by Sections 37-7-209
through 37-7-219.

SECTION 15. 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
Attorney General of the United States or to the United States
District Court for the District of Columbia in accordance with the
provisions of the Voting Rights Act of 1965, as amended and
extended.

SECTION 16. This act shall take effect and be in force from
and after July 1, 2004, if it is effectuated on or before that
date under Section 5 of the Voting Rights Act of 1965, as amended
and extended. If it is effectuated under Section 5 of the Voting
Rights Act of 1965, as amended and extended, after July 1, 2004,
this act shall take effect and be in force from and after the date
it is effectuated under Section 5 of the Voting Rights Act of
1965, as amended and extended.