SENATE BILL NO. 2193

AN ACT TO REQUIRE THE ELECTION OF ALL SCHOOL BOARD MEMBERS IN ALL SCHOOL DISTRICTS BEGINNING IN THE YEAR 2004; TO AMEND SECTIONS 37-7-203 AND 37-7-703, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE ELECTION OF THE MEMBERS OF SCHOOL BOARDS OF MUNICIPAL SEPARATE SCHOOL DISTRICTS AND SPECIAL MUNICIPAL SEPARATE SCHOOL DISTRICTS FROM SCHOOL BOARD MEMBER DISTRICTS BY THE QUALIFIED ELECTORS OF SUCH DISTRICTS, TO DIRECT THE MUNICIPAL GOVERNING AUTHORITIES TO APPORTION THE SCHOOL DISTRICTS INTO FIVE SCHOOL BOARD MEMBER DISTRICTS, AND TO PRESCRIBE THE TIME AND MANNER OF SUCH ELECTIONS AND THE MANNER IN WHICH VACANCIES ON THE SCHOOL BOARDS SHALL BE FILLED; TO AMEND SECTIONS 37-7-201 AND 37-7-221, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; TO REPEAL SECTION 37-7-204, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR THE APPOINTMENT OF INTERIM BOARD MEMBERS TO FILL CERTAIN VACANCIES ON THE SCHOOL BOARDS OF COUNTYWIDE MUNICIPAL SEPARATE SCHOOL DISTRICTS; TO REPEAL SECTIONS 37-7-209 THROUGH 37-7-219, MISSISSIPPI CODE OF 1972, WHICH PROVIDE CERTAIN METHODS FOR ELECTING TRUSTEES FROM ADDED TERRITORY OF MUNICIPAL SEPARATE SCHOOL DISTRICTS; TO REPEAL SECTIONS 37-7-705 THROUGH 37-7-717, MISSISSIPPI CODE OF 1972, WHICH PROVIDE CERTAIN METHODS FOR SELECTING TRUSTEES OF SPECIAL MUNICIPAL SEPARATE SCHOOL DISTRICTS; 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:

[Until January 1, 2004, this section will read 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, or for a term expiring on the first Monday of July 2004, whichever period of time is shorter. Each member of the board of trustees shall be chosen so that the term of office of one (1) member shall expire each year unless the terms expire on the first Monday of July 2004. In the event the added territory of a municipal separate school district furnishes fifteen percent (15%) 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. In the event 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 not more than two members of the board of trustees of such school district shall be residents of the added territory outside the corporate limits. In the event 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 or for a term expiring on the first Monday of July 2004, whichever period of time is shorter. In the event one (1) of two (2) municipal separate school districts located in any county with two 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. 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 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 case of a member of said 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.

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 equal 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 or for a term expiring on the first Monday
of July 2004, whichever period of time is shorter. 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. 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. Said 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 said 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 such 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
such district and the county superintendent of education shall act
as superintendent of schools of said district and shall be
appointed by the board of trustees of said 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.

[From and after January 1, 2004, this section will read as
follows:]

37-7-203. (1) The school boards * * * of all municipal
separate school districts * * * shall consist of five (5) members.
Beginning in 2004, each member shall be elected from a special
school board member district, as provided for under subsection (2)
of this section, by the qualified electors of that district.

(2) The municipal governing authority shall apportion the
municipal separate school district, including any added territory,
into five (5) single school board member districts. The school
board member districts shall be as nearly equal as possible
according to population. The municipal governing authority shall
submit the school board member district lines to the Attorney
General of the United States for preclearance or to the United
States District Court for the District of Columbia for a
declaratory judgment in accordance with the provisions of the
Voting Rights Act of 1965, as amended and extended. If the school
board member district lines are precleared by the United States
Department of Justice or approved by the United States District
Court, the municipal governing authority and the school board of
the municipal separate school district shall place upon their
minutes the boundaries established for the five (5) school board
member districts, and the school board shall publish the
boundaries in a newspaper of general circulation within the school
district for at least three (3) consecutive weeks. After having
given notice of publication and recording the publication upon the
minutes of the school board, the school board member district
lines shall be effective. As soon as practicable after the
results of the 2010 decennial census and every decennial census
thereafter are published, the municipal governing authority shall
reapportion the school board member districts in the manner
prescribed in this subsection for the creation of the original
districts.

(3) On the first Tuesday after the first Monday in June
2004, and every four (4) years thereafter, an election shall be
held in every municipal separate school district, in the same
manner and at the same time as the general municipal elections are
held, for the purpose of electing the members of the school board
of the municipal separate school district. Candidates for the
school board of the municipal separate school district shall file
with the municipal election commissioners, not more than ninety
(90) days and not less than sixty (60) days before the date of the
general election, a petition of nomination signed by at least
fifty (50) or twenty percent (20%) of the qualified electors of
the school board member district, whichever is less. The name of
each qualified candidate shall be placed on the ballot. The
candidate in each school board member district who receives a
majority of the votes cast by the qualified electors in that
district shall be elected. However, if no candidate receives a
majority of the votes, a runoff election shall be held two (2)
weeks after the election. The names of the candidate receiving
the highest number of votes and the candidate, or candidates in
the event of a tie, receiving the next highest vote for the office
shall be placed on the ballot in the runoff election. The person
receiving the highest number of votes cast by the qualified
electors in the runoff election shall be elected. All persons
elected to serve on the school board of the municipal separate
school district shall take office on the first Monday of July next
following the date of their election and shall serve for a term of
four (4) years.

(4) Notwithstanding any other provision of law to the
contrary, in each municipal separate school district, the terms of
all school board members, whether appointed or elected, existing
on the first Tuesday after the first Monday in June 2004 shall
expire when their duly elected successors take office on the first

(5) Whenever there is a vacancy in the membership of the
school board of the municipal separate school district, the
vacancy shall be filled, depending upon the length of the
unexpired term of the vacated office, in the manner provided under
this subsection.

(a) If the unexpired term of the vacated office is six
months or less, the remaining members of the school board
shall appoint, within sixty (60) days after the vacancy occurs, a
person to serve the unexpired portion of the term. The appointee
shall be selected from the qualified electors of the school board
member district in which the vacancy occurs. The chairman of the
school board shall certify to the Secretary of State the fact of
the appointment, and the Governor shall commission the person
appointed.

(b) If the unexpired term of the vacated office is
greater than six (6) months, an election shall be held to fill the
vacancy. The school board shall certify in writing the fact of
the vacancy to the governing authority of the municipality. At
the next regular meeting of the governing authority after its
receipt of certification of the vacancy from the school board, the
governing authority shall make and enter on its minutes an order
for an election to be held in the school board member district in
which the vacancy exists and shall fix the date upon which the
election shall be held, which date shall not be less than thirty (30) days nor more than forty-five (45) days after the date upon which the order is adopted.

The municipal clerk shall publish notice of the election in a newspaper of general circulation within the municipality once each week for three (3) successive weeks preceding the date of the election. The first notice must be published at least thirty (30) days before the date of the election. Notice also shall be given by the school board by posting a copy of the notice at three (3) public places in the school board member district in which the vacancy exists and at the administrative offices of the school board not less than twenty-one (21) days before the date of the election.

Candidates for the vacated office shall file with the municipal clerk, not less than ten (10) days before the date of the election, a petition of nomination signed by at least fifty (50) or twenty percent (20%) of the qualified electors of the school board member district, whichever is less. The election shall be held, as far as practicable, in the same manner as general elections are conducted under subsection (3) of this section. The candidate who receives a majority of the votes cast by the qualified electors in the school board member district shall be elected. However, if no candidate receives a majority of the votes, a runoff election shall be held two (2) weeks after the election. The names of the candidate receiving the highest number of votes and the candidate, or candidates in the event of a tie, receiving the next highest vote for the office shall be placed on the ballot in the runoff election. The person receiving the highest number of votes cast by the qualified electors in the runoff election shall be elected. The clerk of the municipal election commission shall give a certificate of election to the person elected and shall return to the Secretary of State a copy of the order of holding the election and its results, certified by
the municipal clerk. The Governor shall commission the person
elected to serve the remainder of the unexpired term.

However, if nine (9) days before the date of the election
only one (1) person has qualified as a candidate, the governing
authority shall dispense with the election, and the remaining
members of the school board shall appoint that candidate to fill
the unexpired term. If no person has qualified at least nine (9)
days before the election, the governing authority shall dispense
with the election, and the remaining members of the school board
shall appoint a person, selected from the qualified electors of
the school board member district in which the vacancy exists, to
fill the unexpired term. The chairman of the school board shall
certify to the Secretary of State the fact of the appointment, and
the Governor shall commission the person appointed.

SECTION 2. Section 37-7-703, Mississippi Code of 1972, is
amended as follows:

[Until January 1, 2004, this section will read as follows:]

37-7-703. In all such special municipal separate school
districts which embrace the entire county in which, according to
the latest available federal census, a majority of the inhabitants
of the county reside within the corporate limits of the
municipality, the board of trustees of such special municipal
separate school district shall be chosen and selected in the
manner provided by subsection (1) of Section 37-7-203, and all of
the provisions thereof shall be fully applicable in all respects
to the selection and constitution of such board of trustees.

[From and after January 1, 2004, this section will read as
follows:]

37-7-703. (1) In all *** special municipal separate
school districts, beginning in 2004, *** the school board ***
of such special municipal separate school district shall be
elected in the manner provided in this section ***.
(2) Each member of the school board of the special municipal separate school district shall be elected from a special school board member district by the qualified electors of that district. The municipal governing authority shall apportion the special municipal separate school district, including any added territory, into five (5) single school board member districts. The school board member districts shall be as nearly equal as possible according to population. The municipal governing authority shall submit the school board member district lines to the Attorney General of the United States for preclearance or to the United States District Court for the District of Columbia for a declaratory judgment in accordance with the provisions of the Voting Rights Act of 1965, as amended and extended. If the school board member district lines are precleared by the United States Department of Justice or approved by the United States District Court, the municipal governing authority and the school board of the special municipal separate school district shall place upon their minutes the boundaries established for the five (5) school board member districts, and the school board shall publish the boundaries in a newspaper of general circulation within the school district for at least three (3) consecutive weeks. After having given notice of publication and recording the publication upon the minutes of the school board, the school board member district lines shall be effective. As soon as practicable after the results of the 2010 decennial census and every decennial census thereafter are published, the municipal governing authority shall reapportion the school board member districts in the manner prescribed in this subsection for the creation of the original districts.

(3) On the first Tuesday after the first Monday in June 2004, and every four (4) years thereafter, an election shall be held in every special municipal separate school district, in the same manner and at the same time as the general municipal
elections are held, for the purpose of electing the members of the school board of the special municipal separate school district. Candidates for the school board of the special municipal separate school district shall file with the municipal election commissioners, not more than ninety (90) days and not less than sixty (60) days before the date of the general election, a petition of nomination signed by at least fifty (50) or twenty percent (20%) of the qualified electors of the school board member district, whichever is less. The name of each qualified candidate shall be placed on the ballot. The candidate in each school board member district who receives a majority of the votes cast by the qualified electors in that district shall be elected. However, if no candidate receives a majority of the votes, a runoff election shall be held two (2) weeks after the election. The names of the candidate receiving the highest number of votes and the candidate, or candidates in the event of a tie, receiving the next highest vote for the office shall be placed on the ballot in the runoff election. The person receiving the highest number of votes cast by the qualified electors in the runoff election shall be elected. All persons elected to serve on the school board of the special municipal separate school district shall take office on the first Monday of July next following the date of their election and shall serve for a term of four (4) years.

(4) Notwithstanding any other provision of law to the contrary, in each special municipal separate school district, the terms of all school board members, whether appointed or elected, existing on the first Tuesday after the first Monday in June 2004 shall expire when their duly elected successors take office on the first Monday of July 2004.

(5) Whenever there is a vacancy in the membership of the school board of the special municipal separate school district, the vacancy shall be filled, depending upon the length of the
unexpired term of the vacated office, in the manner provided under this subsection.

(a) If the unexpired term of the vacated office is six (6) months or less, the remaining members of the school board shall appoint, within sixty (60) days after the vacancy occurs, a person to serve the unexpired portion of the term. The appointee shall be selected from the qualified electors of the school board member district in which the vacancy occurs. The chairman of the school board shall certify to the Secretary of State the fact of the appointment, and the Governor shall commission the person appointed.

(b) If the unexpired term of the vacated office is greater than six (6) months, an election shall be held to fill the vacancy. The school board shall certify in writing the fact of the vacancy to the governing authority of the municipality. At the next regular meeting of the governing authority after its receipt of certification of the vacancy from the school board, the governing authority shall make and enter on its minutes an order for an election to be held in the school board member district in which the vacancy exists and shall fix the date upon which the election shall be held, which date shall not be less than thirty (30) days nor more than forty-five (45) days after the date upon which the order is adopted.

The municipal clerk shall publish notice of the election in a newspaper of general circulation within the municipality once each week for three (3) successive weeks preceding the date of the election. The first notice must be published at least thirty (30) days before the date of the election. Notice also shall be given by the school board by posting a copy of the notice at three (3) public places in the school board member district in which the vacancy exists and at the administrative offices of the school board not less than twenty-one (21) days before the date of the election.
Candidates for the vacated office shall file with the municipal clerk, not less than ten (10) days before the date of the election, a petition of nomination signed by at least fifty (50) or twenty percent (20%) of the qualified electors of the school board member district, whichever is less. The election shall be held, as far as practicable, in the same manner as general elections are conducted under subsection (3) of this section. The candidate who receives a majority of the votes cast by the qualified electors in the school board member district shall be elected. However, if no candidate receives a majority of the votes, a runoff election shall be held two (2) weeks after the election. The names of the candidate receiving the highest number of votes and the candidate, or candidates in the event of a tie, receiving the next highest vote for the office shall be placed on the ballot in the runoff election. The person receiving the highest number of votes cast by the qualified electors in the runoff election shall be elected. The clerk of the municipal election commission shall give a certificate of election to the person elected and shall return to the Secretary of State a copy of the order of holding the election and its results, certified by the municipal clerk. The Governor shall commission the person elected to serve the remainder of the unexpired term.

However, if nine (9) days before the date of the election only one (1) person has qualified as a candidate, the governing authority shall dispense with the election, and the remaining members of the school board shall appoint that candidate to fill the unexpired term. If no person has qualified at least nine (9) days before the election, the governing authority shall dispense with the election, and the remaining members of the school board shall appoint a person, selected from the qualified electors of the school board member district in which the vacancy exists, to fill the unexpired term. The chairman of the school board shall
certify to the Secretary of State the fact of the appointment, and
the Governor shall commission the person appointed.

SECTION 3. Section 37-7-201, Mississippi Code of 1972, is
amended as follows:

[Until January 1, 2004, this section will read as follows:]

37-7-201. In order for a person to be eligible to hold the
office of trustee of any school district, such person must be a
bona fide resident and a qualified elector of such school
district, and, in the case of a school district lying in two (2)
or more counties, but not including municipal separate school
districts, such person must be a bona fide resident and a
qualified elector of the territory entitled to such representation
on the board.

[From and after January 1, 2004, this section will read as
follows:]

37-7-201. In order for a person to be eligible to hold the
office of school board member of any school district, such person
must be a bona fide resident and a qualified elector of the school
board member district entitled to such representation on
the school board.

SECTION 4. Section 37-7-221, Mississippi Code of 1972, is
amended as follows:

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

SECTION 5. Section 37-7-204, Mississippi Code of 1972, which
provides for the appointment of interim board members to fill
certain vacancies on the school boards of countywide municipal
separate school districts, shall stand repealed from and after

SECTION 6. Sections 37-7-209, 37-7-211, 37-7-213, 37-7-215,
37-7-217 and 37-7-219, Mississippi Code of 1972, which provide
certain methods for electing trustees from added territory of
municipal separate school districts, shall stand repealed from and after January 1, 2004.

SECTION 7. Sections 37-7-705, 37-7-707, 37-7-709, 37-7-711, 37-7-713, 37-7-715 and 37-7-717, Mississippi Code of 1972, which provide various methods for selecting trustees of special municipal separate school districts, shall stand repealed from and after January 1, 2004.

SECTION 8. 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 9. 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.