SENATE BILL NO. 2801

AN ACT TO AMEND SECTION 37-7-203, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE TRUSTEES OF MUNICIPAL SEPARATE SCHOOL DISTRICTS SHALL BE ELECTED FROM SPECIAL TRUSTEE ELECTION DISTRICTS BY THE QUALIFIED ELECTORS OF SUCH DISTRICT; TO PROVIDE THAT SUCH ELECTION SHALL BE HELD EVERY FOUR YEARS IN THE SAME MANNER AS ELECTIONS ARE HELD FOR OTHER MUNICIPAL OFFICERS; TO AMEND SECTION 37-7-703, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE TRUSTEES OF SPECIAL MUNICIPAL SEPARATE SCHOOL DISTRICTS SHALL BE ELECTED IN THE SAME MANNER AS TRUSTEES 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; TO REPEAL SECTIONS 37-7-209 THROUGH 37-7-219, MISSISSIPPI CODE OF 1972, WHICH PROVIDE CERTAIN METHODS FOR ELECTING TRUSTEES OF MUNICIPAL SEPARATE SCHOOL DISTRICTS FROM ADDED TERRITORY; TO AMEND SECTION 37-9-13, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE APPOINTMENT OF ALL SUPERINTENDENTS OF SCHOOLS FROM AND AFTER JANUARY 1, 2004; TO AMEND SECTION 37-9-25, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; TO REPEAL SECTION 37-9-12, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR A REFERENDUM ON THE QUESTION OF RETAINING THE ELECTIVE METHOD OF CHOOSING THE COUNTY SUPERINTENDENT OF EDUCATION; TO REPEAL SECTIONS 37-5-61 THROUGH 37-5-71, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR THE APPOINTMENT OF COUNTY SUPERINTENDENTS OF EDUCATION; 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 the provisions of Article 1 of this chapter, either with or without added territory, shall consist of five (5) members **. From and after January 1, 2003, at the time of the next regularly occurring municipal general election, and every four (4) years thereafter, an election shall be held in each municipal separate school district in this state, in the same manner and at the same time as the regular municipal elections are held, for the purpose of electing the members of the boards of trustees established under the provisions of this article. All members of the boards of trustees as herein
constituted shall take office on the first Monday of July following the date of their election and shall serve for a term of four (4) years. The five (5) members of the board of trustees of such school district 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 municipal separate school district, including added territory, into five (5) special trustee election districts as nearly equal as possible according to population, incumbency and other factors heretofore pronounced by the courts. The municipal governing authority shall place upon its minutes the boundaries determined for the new five (5) trustee election districts. The municipal governing authority 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 municipal governing authority, such new district lines shall thereafter be effective. All incumbent trustees holding office at the time of the creation of such trustee election districts 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 selected, and their successors shall be elected from the new trustee election districts constituted herein in the manner provided for in this section.

(2) Vacancies in the membership of the board of trustees of any municipal separate school district shall be filled by appointment, within sixty (60) days after the vacancy occurs, by the governing authorities of such municipality. Such appointee shall be selected from the qualified electors of the district in which the vacancy occurs. The president of the municipal governing authority shall certify to the Secretary of State the fact of the appointment, and the person so appointed shall be commissioned by the Governor; and if the unexpired term be longer
than six (6) months, such appointee shall serve until a successor
is elected as hereinafter provided, unless the vacancy shall occur
before ninety (90) days prior to the general election in a year in
which an election would normally be held for that office as
provided by law, in which case the person so appointed shall serve
the unexpired portion of the term. Such vacancies shall be filled
for the unexpired term by the qualified electors at the next
regular special election day occurring more than ninety (90) days
after the occurrence of the vacancy. The president of the
municipal governing authority shall, within ten (10) days after
the happening of the vacancy, make an order, in writing, directed
to the commissioners of election, commanding an election to be
held on the next regular special election day to fill the vacancy.
The election commissioners shall require each candidate to qualify
at least sixty (60) days before the date of the election, and
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 showing the results thereof, certified by the
president of the municipal governing authority. Such election
shall be held in the same manner provided for other municipal
office vacancies. The person elected shall be commissioned by the
Governor.

Provided, however, where only one (1) person shall have
qualified with the commissioners of election to be a candidate
within the time provided by law, the commissioners of election
shall certify to the municipal governing authority that there is
but one (1) candidate. Thereupon, the municipal governing
authority shall dispense with the election and shall appoint the
candidate so certified to fill the unexpired term. The president
of the municipal governing authority shall certify to the
Secretary of State the candidate so appointed to serve in such
office and that candidate shall be commissioned by the Governor.

In the event that no person shall have qualified at least sixty
(60) days prior to the date of the election, the commissioners of 
election shall certify that fact to the municipal governing 
authority which shall dispense with the election and fill the 
vacancy by appointment. The president of the municipal governing 
authority shall certify to the Secretary of State the fact of the 
appointment, and the person so appointed shall be commissioned by 
the Governor.

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

37-7-703. In all such special municipal separate school 
districts, the board of trustees of such special municipal 
separate school district shall be elected 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.

SECTION 3. 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 of municipal separate school 
districts from added territory, are repealed.

SECTION 4. 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 certain methods for selecting trustees of special 
municipal separate school districts, are repealed.

SECTION 5. Section 37-9-13, Mississippi Code of 1972, is 
amended as follows:

[Until December 31, 2003, this section will read as follows:]

37-9-13. Each school district shall have a superintendent of 
schools, selected in the manner provided by law. No person shall 
be eligible to the office of superintendent of schools unless such 
person shall hold a valid administrator's license issued by the 
State Department of Education and shall have had not less than 
four (4) years of classroom or administrative experience.
[From and after January 1, 2004, this section will read as follows:]

37-9-13. (1) In all public school districts, the school board shall, on or before January 15 of each year, appoint the superintendent of schools of such district, except in those cases where the superintendent has been previously selected and has a contract which is valid for the ensuing scholastic year.

(2) * * * No person shall be eligible to the office of superintendent of schools unless such person shall hold a valid administrator's license issued by the State Department of Education and shall have had not less than four (4) years of classroom or administrative experience.

SECTION 6. Section 37-9-25, Mississippi Code of 1972, is amended as follows:

[Until December 31, 2003, this section will read as follows:]

37-9-25. The school board shall have the power and authority, in its discretion, to employ the superintendent, unless such superintendent is elected, for not exceeding four (4) scholastic years and the principals or licensed employees for not exceeding three (3) scholastic years. In such case, contracts shall be entered into with such superintendents, principals and licensed employees for the number of years for which they have been employed. All such contracts with licensed employees shall for the years after the first year thereof be subject to the contingency that the licensed employee may be released if, during the life of the contract, the average daily attendance should decrease from that existing during the previous year and thus necessitate a reduction in the number of licensed employees during any year after the first year of the contract. However, in all such cases the licensed employee must be released before July 1 or at least thirty (30) days prior to the beginning of the school term, whichever date should occur earlier. The salary to be paid for the years after the first year of such contract shall be
subject to revision, either upward or downward, in the event of an
increase or decrease in the funds available for the payment
thereof, but, unless such salary is revised prior to the beginning
of a school year, it shall remain for such school year at the
amount fixed in such contract. However, where school district
funds, other than minimum education program funds, are available
during the school year in excess of the amount anticipated at the
beginning of the school year the salary to be paid for such year
may be increased to the extent that such additional funds are
available and nothing herein shall be construed to prohibit same.

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

37-9-25. The school board shall have the power and
authority, in its discretion, to employ the superintendent * * * for
not exceeding four (4) scholastic years and the principals or
licensed employees for not exceeding three (3) scholastic years.
In such case, contracts shall be entered into with such
superintendents, principals and licensed employees for the number
of years for which they have been employed. All such contracts
with licensed employees shall for the years after the first year
thereof be subject to the contingency that the licensed employee
may be released if, during the life of the contract, the average
daily attendance should decrease from that existing during the
previous year and thus necessitate a reduction in the number of
licensed employees during any year after the first year of the
contract. However, in all such cases the licensed employee must
be released before July 1 or at least thirty (30) days prior to
the beginning of the school term, whichever date should occur
earlier. The salary to be paid for the years after the first year
of such contract shall be subject to revision, either upward or
downward, in the event of an increase or decrease in the funds
available for the payment thereof, but, unless such salary is
revised prior to the beginning of a school year, it shall remain
for such school year at the amount fixed in such contract.

However, where school district funds, other than minimum education program funds, are available during the school year in excess of the amount anticipated at the beginning of the school year the salary to be paid for such year may be increased to the extent that such additional funds are available and nothing herein shall be construed to prohibit same.

SECTION 7. Section 37-9-12, Mississippi Code of 1972, which provides for a referendum on the question of retaining the elective method of choosing the county superintendent of education, is hereby repealed.


SECTION 9. 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 10. This act shall take effect and be in force from and after January 1, 2003, or the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended, whichever occurs later.