

By: Senator(s) Simmons

To: Education

SENATE BILL NO. 2801

1 AN ACT TO AMEND SECTION 37-7-203, MISSISSIPPI CODE OF 1972,
 2 TO PROVIDE THAT THE TRUSTEES OF MUNICIPAL SEPARATE SCHOOL
 3 DISTRICTS SHALL BE ELECTED FROM SPECIAL TRUSTEE ELECTION DISTRICTS
 4 BY THE QUALIFIED ELECTORS OF SUCH DISTRICT; TO PROVIDE THAT SUCH
 5 ELECTION SHALL BE HELD EVERY FOUR YEARS IN THE SAME MANNER AS
 6 ELECTIONS ARE HELD FOR OTHER MUNICIPAL OFFICERS; TO AMEND SECTION
 7 37-7-703, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE TRUSTEES
 8 OF SPECIAL MUNICIPAL SEPARATE SCHOOL DISTRICTS SHALL BE ELECTED IN
 9 THE SAME MANNER AS TRUSTEES OF MUNICIPAL SEPARATE SCHOOL
 10 DISTRICTS; TO REPEAL SECTIONS 37-7-705 THROUGH 37-7-717,
 11 MISSISSIPPI CODE OF 1972, WHICH PROVIDE CERTAIN METHODS FOR
 12 SELECTING TRUSTEES OF SPECIAL MUNICIPAL SEPARATE SCHOOL DISTRICTS;
 13 TO REPEAL SECTIONS 37-7-209 THROUGH 37-7-219, MISSISSIPPI CODE OF
 14 1972, WHICH PROVIDE CERTAIN METHODS FOR ELECTING TRUSTEES OF
 15 MUNICIPAL SEPARATE SCHOOL DISTRICTS FROM ADDED TERRITORY; TO AMEND
 16 SECTION 37-9-13, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE
 17 APPOINTMENT OF ALL SUPERINTENDENTS OF SCHOOLS FROM AND AFTER
 18 JANUARY 1, 2004; TO AMEND SECTION 37-9-25, MISSISSIPPI CODE OF
 19 1972, IN CONFORMITY THERETO; TO REPEAL SECTION 37-9-12,
 20 MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR A REFERENDUM ON THE
 21 QUESTION OF RETAINING THE ELECTIVE METHOD OF CHOOSING THE COUNTY
 22 SUPERINTENDENT OF EDUCATION; TO REPEAL SECTIONS 37-5-61 THROUGH
 23 37-5-71, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR THE ELECTION
 24 OF COUNTY SUPERINTENDENTS OF EDUCATION; AND FOR RELATED PURPOSES.

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

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

28 37-7-203. (1) The boards of trustees of all municipal
 29 separate school districts created under the provisions of Article
 30 1 of this chapter, either with or without added territory, shall
 31 consist of five (5) members * * *. From and after January 1,
 32 2003, at the time of the next regularly occurring municipal
 33 general election, and every four (4) years thereafter, an election
 34 shall be held in each municipal separate school district in this
 35 state, in the same manner and at the same time as the regular
 36 municipal elections are held, for the purpose of electing the
 37 members of the boards of trustees established under the provisions
 38 of this article. All members of the boards of trustees as herein



39 constituted shall take office on the first Monday of July
40 following the date of their election and shall serve for a term of
41 four (4) years. The five (5) members of the board of trustees of
42 such school district shall be elected from special trustee
43 election districts by the qualified electors thereof, as herein
44 provided. The governing authorities of such municipality shall
45 apportion the municipal separate school district, including added
46 territory, into five (5) special trustee election districts as
47 nearly equal as possible according to population, incumbency and
48 other factors heretofore pronounced by the courts. The municipal
49 governing authority shall place upon its minutes the boundaries
50 determined for the new five (5) trustee election districts. The
51 municipal governing authority shall thereafter publish the same in
52 a newspaper of general circulation within said school district for
53 at least three (3) consecutive weeks; and after having given
54 notice of publication and recording the same upon the minutes of
55 the municipal governing authority, such new district lines shall
56 thereafter be effective. All incumbent trustees holding office at
57 the time of the creation of such trustee election districts shall
58 continue holding their respective offices, provided they reside
59 within the new district, for the remainder of the term of office
60 to which they have heretofore been selected, and their successors
61 shall be elected from the new trustee election districts
62 constituted herein in the manner provided for in this section.

63 (2) Vacancies in the membership of the board of trustees of
64 any municipal separate school district shall be filled by
65 appointment, within sixty (60) days after the vacancy occurs, by
66 the governing authorities of such municipality. Such appointee
67 shall be selected from the qualified electors of the district in
68 which the vacancy occurs. The president of the municipal
69 governing authority shall certify to the Secretary of State the
70 fact of the appointment, and the person so appointed shall be
71 commissioned by the Governor; and if the unexpired term be longer



72 than six (6) months, such appointee shall serve until a successor
73 is elected as hereinafter provided, unless the vacancy shall occur
74 before ninety (90) days prior to the general election in a year in
75 which an election would normally be held for that office as
76 provided by law, in which case the person so appointed shall serve
77 the unexpired portion of the term. Such vacancies shall be filled
78 for the unexpired term by the qualified electors at the next
79 regular special election day occurring more than ninety (90) days
80 after the occurrence of the vacancy. The president of the
81 municipal governing authority shall, within ten (10) days after
82 the happening of the vacancy, make an order, in writing, directed
83 to the commissioners of election, commanding an election to be
84 held on the next regular special election day to fill the vacancy.
85 The election commissioners shall require each candidate to qualify
86 at least sixty (60) days before the date of the election, and
87 shall give a certificate of election to the person elected, and
88 shall return to the Secretary of State a copy of the order of
89 holding the election showing the results thereof, certified by the
90 president of the municipal governing authority. Such election
91 shall be held in the same manner provided for other municipal
92 office vacancies. The person elected shall be commissioned by the
93 Governor.

94 Provided, however, where only one (1) person shall have
95 qualified with the commissioners of election to be a candidate
96 within the time provided by law, the commissioners of election
97 shall certify to the municipal governing authority that there is
98 but one (1) candidate. Thereupon, the municipal governing
99 authority shall dispense with the election and shall appoint the
100 candidate so certified to fill the unexpired term. The president
101 of the municipal governing authority shall certify to the
102 Secretary of State the candidate so appointed to serve in such
103 office and that candidate shall be commissioned by the Governor.
104 In the event that no person shall have qualified at least sixty



105 (60) days prior to the date of the election, the commissioners of
106 election shall certify that fact to the municipal governing
107 authority which shall dispense with the election and fill the
108 vacancy by appointment. The president of the municipal governing
109 authority shall certify to the Secretary of State the fact of the
110 appointment, and the person so appointed shall be commissioned by
111 the Governor.

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

114 37-7-703. In all such special municipal separate school
115 districts * * *, the board of trustees of such special municipal
116 separate school district shall be elected in the manner provided
117 by subsection (1) of Section 37-7-203, and all of the provisions
118 thereof shall be fully applicable in all respects to the selection
119 and constitution of such board of trustees.

120 **SECTION 3.** Sections 37-7-209, 37-7-211, 37-7-213, 37-7-215,
121 37-7-217 and 37-7-219, Mississippi Code of 1972, which provide
122 certain methods for electing trustees of municipal separate school
123 districts from added territory, are repealed.

124 **SECTION 4.** Sections 37-7-705, 37-7-707, 37-7-709, 37-7-711,
125 37-7-713, 37-7-715 and 37-7-717, Mississippi Code of 1972, which
126 provide certain methods for selecting trustees of special
127 municipal separate school districts, are repealed.

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

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

131 37-9-13. Each school district shall have a superintendent of
132 schools, selected in the manner provided by law. No person shall
133 be eligible to the office of superintendent of schools unless such
134 person shall hold a valid administrator's license issued by the
135 State Department of Education and shall have had not less than
136 four (4) years of classroom or administrative experience.



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

139 37-9-13. (1) In all public school districts, the school
140 board shall, on or before January 15 of each year, appoint the
141 superintendent of schools of such district, except in those cases
142 where the superintendent has been previously selected and has a
143 contract which is valid for the ensuing scholastic year.

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

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

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

152 37-9-25. The school board shall have the power and
153 authority, in its discretion, to employ the superintendent, unless
154 such superintendent is elected, for not exceeding four (4)
155 scholastic years and the principals or licensed employees for not
156 exceeding three (3) scholastic years. In such case, contracts
157 shall be entered into with such superintendents, principals and
158 licensed employees for the number of years for which they have
159 been employed. All such contracts with licensed employees shall
160 for the years after the first year thereof be subject to the
161 contingency that the licensed employee may be released if, during
162 the life of the contract, the average daily attendance should
163 decrease from that existing during the previous year and thus
164 necessitate a reduction in the number of licensed employees during
165 any year after the first year of the contract. However, in all
166 such cases the licensed employee must be released before July 1 or
167 at least thirty (30) days prior to the beginning of the school
168 term, whichever date should occur earlier. The salary to be paid
169 for the years after the first year of such contract shall be



170 subject to revision, either upward or downward, in the event of an
171 increase or decrease in the funds available for the payment
172 thereof, but, unless such salary is revised prior to the beginning
173 of a school year, it shall remain for such school year at the
174 amount fixed in such contract. However, where school district
175 funds, other than minimum education program funds, are available
176 during the school year in excess of the amount anticipated at the
177 beginning of the school year the salary to be paid for such year
178 may be increased to the extent that such additional funds are
179 available and nothing herein shall be construed to prohibit same.

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

182 37-9-25. The school board shall have the power and
183 authority, in its discretion, to employ the superintendent * * *
184 for not exceeding four (4) scholastic years and the principals or
185 licensed employees for not exceeding three (3) scholastic years.
186 In such case, contracts shall be entered into with such
187 superintendents, principals and licensed employees for the number
188 of years for which they have been employed. All such contracts
189 with licensed employees shall for the years after the first year
190 thereof be subject to the contingency that the licensed employee
191 may be released if, during the life of the contract, the average
192 daily attendance should decrease from that existing during the
193 previous year and thus necessitate a reduction in the number of
194 licensed employees during any year after the first year of the
195 contract. However, in all such cases the licensed employee must
196 be released before July 1 or at least thirty (30) days prior to
197 the beginning of the school term, whichever date should occur
198 earlier. The salary to be paid for the years after the first year
199 of such contract shall be subject to revision, either upward or
200 downward, in the event of an increase or decrease in the funds
201 available for the payment thereof, but, unless such salary is
202 revised prior to the beginning of a school year, it shall remain



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

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

214 **SECTION 8.** Sections 37-5-61, 37-5-63, 37-5-65, 37-5-67,
215 37-5-69 and 37-5-71, Mississippi Code of 1972, which provide for
216 the election of county superintendents of education, are repealed.

217 **SECTION 9.** The Attorney General of the State of Mississippi
218 shall submit this act, immediately upon approval by the Governor,
219 or upon approval by the Legislature subsequent to a veto, to the
220 Attorney General of the United States or to the United States
221 District Court for the District of Columbia in accordance with the
222 provisions of the Voting Rights Act of 1965, as amended and
223 extended.

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

