

By: Representative Moore

To: Education; Apportionment
and Elections

HOUSE BILL NO. 1170

1 AN ACT TO AMEND SECTION 37-5-7, MISSISSIPPI CODE OF 1972, TO
 2 PROVIDE FOR THE ELECTION OF MEMBERS OF THE COUNTY BOARDS OF
 3 EDUCATION AT THE SAME TIME AS GENERAL STATE AND COUNTY ELECTIONS
 4 AND TO ESTABLISH A TERM OF FOUR YEARS FOR THAT OFFICE; TO AMEND
 5 SECTION 37-7-207, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE
 6 ELECTION OF MEMBERS OF THE BOARDS OF TRUSTEES OF CONSOLIDATED
 7 SCHOOL DISTRICTS AND LINE CONSOLIDATED SCHOOL DISTRICTS IN THE
 8 SAME MANNER AND AT THE SAME TIME AS GENERAL STATE AND COUNTY
 9 ELECTIONS AND TO ESTABLISH A TERM OF FOUR YEARS FOR THOSE OFFICES;
 10 TO AMEND SECTION 37-7-713, MISSISSIPPI CODE OF 1972, TO PROVIDE
 11 FOR THE ELECTION OF MEMBERS OF THE BOARDS OF TRUSTEES OF CERTAIN
 12 SPECIAL MUNICIPAL SEPARATE SCHOOL DISTRICTS IN THE SAME MANNER AND
 13 AT THE SAME TIME AS GENERAL STATE AND COUNTY ELECTIONS AND TO
 14 ESTABLISH A TERM OF FOUR YEARS FOR THAT OFFICE; TO REPEAL SECTIONS
 15 37-7-221, 37-7-223, 37-7-227 AND 37-7-229, MISSISSIPPI CODE OF
 16 1972, WHICH PROVIDE CERTAIN METHODS FOR ELECTING TRUSTEES OF
 17 CONSOLIDATED AND LINE CONSOLIDATED SCHOOL DISTRICTS; TO REPEAL
 18 SECTIONS 37-7-705, 37-7-707, 37-7-709, 37-7-711, 37-7-715 AND
 19 37-7-717, MISSISSIPPI CODE OF 1972, WHICH PROVIDE CERTAIN METHODS
 20 FOR SELECTING TRUSTEES OF SPECIAL MUNICIPAL SEPARATE SCHOOL
 21 DISTRICTS; AND FOR RELATED PURPOSES.

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

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

25 37-5-7. (1) On the first Tuesday after the first Monday in
 26 November 2007 and every four (4) years thereafter, an election
 27 shall be held in each county in this state in the same manner and
 28 at the same time as general state and county elections are held
 29 and conducted, * * * for the purpose of electing the county boards
 30 of education established under the provisions of this
 31 chapter. * * * All members of the county board of education * * *
 32 shall take office on the first Monday of January following the
 33 date of their election and shall serve for a term of four (4)
 34 years. However, in order to provide for an orderly transition,
 35 the term of each member of the board serving on the date that
 36 House Bill No. _____, 2004 Regular Session, becomes effective that

37 otherwise would expire after the first Monday in January 2008,
38 shall expire on the first Monday of January 2008. Each member of
39 the board whose term expires after the first Monday of January
40 2005 but before the first Monday of January 2008 shall continue to
41 serve for the remainder of the unexpired term, at which time the
42 vacancy shall be filled in the manner provided in Section 37-5-19.

43 (2) On the first Tuesday after the first Monday in November
44 2007 and every four (4) years thereafter, in any * * * county
45 electing to utilize the authority contained in Section 37-5-1(2),
46 an election shall be held in the same manner and at the same time
47 as general state and county elections are held and conducted, for
48 the purpose of electing the county board of education in that
49 county. * * * All members of the county board of education shall
50 take office on the first Monday of January following the date of
51 their election and shall serve for a term of four (4) years.
52 However, in order to provide for an orderly transition, the term
53 of each member of the board serving on the date that House Bill
54 No. _____, 2004 Regular Session, becomes effective that otherwise
55 would expire after the first Monday in January 2008, shall expire
56 on the first Monday of January 2008. Each member of the board
57 whose term expires after the first Monday of January 2005 but
58 before the first Monday of January 2008 shall continue to serve
59 for the remainder of the unexpired term, at which time the vacancy
60 shall be filled in the manner provided in Section 37-5-19.

61 **SECTION 2.** Section 37-7-207, Mississippi Code of 1972, is
62 amended as follows:

63 * * *

64 37-7-207. (1) All school districts reconstituted or created
65 under the provisions of Article 3 of this chapter, and which lie
66 wholly within one (1) county, but not including municipal separate
67 and countywide districts, shall be governed by a board of five (5)
68 trustees. The first board of trustees of such districts shall be
69 appointed by the county board of education, and the original

70 appointments shall be so made that one (1) trustee shall be
71 appointed to serve until the first Saturday of March following
72 such appointments, one (1) for one (1) year longer, one (1) for
73 two (2) years longer, one (1) for three (3) years longer, and one
74 (1) for four (4) years longer. After such original appointments,
75 the trustees of such school districts shall be elected by the
76 qualified electors of such school districts in the manner provided
77 for in this section and Section 37-7-225, with each trustee to be
78 elected for a term of four (4) years. The five (5) members of the
79 board of trustees of such consolidated school district shall be
80 elected from special trustee election districts by the qualified
81 electors thereof, as herein provided. The board of trustees of
82 any such consolidated school district shall apportion the
83 consolidated school district into five (5) special trustee
84 election districts. The board of trustees of such school district
85 shall place upon its minutes the boundaries determined for the new
86 five (5) trustee election districts. The board of trustees shall
87 thereafter publish the same in a newspaper of general circulation
88 within said school district for at least three (3) consecutive
89 weeks; and after having given notice of publication and recording
90 the same upon the minutes of the board of trustees, said new
91 district lines shall thereafter be effective.

92 * * *

93 On the first Tuesday after the first Monday in November 2007
94 and every four (4) years thereafter, in each consolidated school
95 district * * * an election shall be held in the same manner and at
96 the same time as general state and county elections are held and
97 conducted, for the purpose of electing the board of trustees of
98 such district. At the election, the members of the * * *
99 board * * * shall be elected for a term of four (4) years.
100 However, in order to provide for an orderly transition, the term
101 of each member of the board serving on the date that House Bill
102 No. _____, 2004 Regular Session, becomes effective that otherwise

103 would expire after the first Monday in January 2008, shall expire
104 on the first Monday of January 2008. Each member of the board
105 whose term expires after the first Monday of January 2005 but
106 before the first Monday of January 2008 shall continue to serve
107 for the remainder of the unexpired term, at which time the vacancy
108 shall be filled in the manner provided in this paragraph. All
109 members of the * * * board of trustees shall take office on the
110 first Monday of January following the date of their election. All
111 vacancies which may occur during a term shall be filled by
112 appointment of the consolidated school district trustees, but the
113 person so appointed shall serve only until the next general
114 election following such appointment, at which time a person shall
115 be elected for the remainder of the unexpired term at the same
116 time and in the same manner as a trustee is elected for the full
117 term then expiring. The person so elected to the unexpired term
118 shall take office immediately. Said appointee shall be selected
119 from the qualified electors of the district in which the vacancy
120 occurs.

121 (2) All school districts reconstituted and created under the
122 provisions of Article 1 of this chapter, which embrace territory
123 in two (2) or more counties, but not including municipal separate
124 school districts, shall be governed by a board of five (5)
125 trustees. In making the original appointments, the several county
126 boards of education shall appoint the trustee or trustees to which
127 the territory in such county is entitled, and, by agreement
128 between the county boards concerned, one (1) person shall be
129 appointed to serve until the first Saturday of March following,
130 one (1) for one (1) year longer, one (1) for two (2) years longer,
131 one (1) for three (3) years longer and one (1) for four (4) years
132 longer. Thereafter, such trustees shall be elected in the manner
133 provided for in this section and Section 37-7-225, for a term of
134 four (4) years. The five (5) members of the board of trustees of
135 such line consolidated school district shall be elected from

136 special trustee election districts by the qualified electors
137 thereof, as herein provided. The existing board of trustees of
138 such line consolidated school district shall apportion the line
139 consolidated school district into five (5) special trustee
140 election districts. The board of trustees shall place upon its
141 minutes the boundaries determined for the new five (5) trustee
142 election districts. The board of trustees shall thereafter
143 publish the same in a newspaper of general circulation within said
144 school district for at least three (3) consecutive weeks; and
145 after having given notice of publication and recording the same
146 upon the minutes of the board of trustees, the new district lines
147 shall thereafter be effective. However, that in any line
148 consolidated school district encompassing two (2) or more counties
149 created pursuant to Laws, 1953, Extraordinary Session, Chapter 12,
150 Section 8, in which, as a condition precedent to the creation of
151 said district, each county belonging thereto was contractually
152 guaranteed to always have at least one (1) representative on said
153 board, in order that said condition precedent may be honored and
154 guaranteed, in any year in which the board of trustees of such
155 line consolidated school district does not have at least one (1)
156 member from each county or part thereof forming such district, the
157 board of trustees in such district shall be governed by a board of
158 a sufficient number of trustees to fulfill this guarantee, five
159 (5) of whom shall be elected from the five (5) special trustee
160 election districts which shall be as nearly equal as possible and
161 one (1) member trustee appointed at large from each county not
162 having representation on the elected board. In such cases, the
163 board of supervisors of each county shall make written agreement
164 to guarantee the manner of appointment of at least one (1)
165 representative from each county in the district, placing such
166 written agreement on the minutes of each board of supervisors in
167 each county.

168 On the first Tuesday after the first Monday in November 2007
169 and every four (4) years thereafter, in each line consolidated
170 school district * * * an election shall be held in the same manner
171 and at the same time as general state and county elections are
172 held and conducted, for the purpose of electing the board of
173 trustees of such district. At the election, the members of
174 the * * * board * * * shall be elected for a term of four (4)
175 years. However, in order to provide for an orderly transition,
176 the term of each member of the board serving on the date that
177 House Bill No. _____, 2004 Regular Session, becomes effective that
178 otherwise would expire after the first Monday in January 2008,
179 shall expire on the first Monday of January 2008. Each member of
180 the board whose term expires after the first Monday of January
181 2005 but before the first Monday of January 2008 shall continue to
182 serve for the remainder of the unexpired term, at which time the
183 vacancy shall be filled in the manner provided in this paragraph.
184 All members of the * * * board of trustees shall take office on
185 the first Monday of January following the date of their election.
186 In all elections, the trustee elected shall be a resident and
187 qualified elector of the district entitled to the representation
188 upon the board, and he shall be elected only by the qualified
189 electors of such district. All vacancies which may occur during a
190 term of office shall be filled by appointment of the consolidated
191 line school district trustees, but the person so appointed shall
192 serve only until the next general election following such
193 appointment, at which time a person shall be elected for the
194 remainder of the unexpired term at the same time and in the same
195 manner as the trustee is elected for the full term then expiring.
196 The person so elected to the unexpired term shall take office
197 immediately.

198 * * *

199 **SECTION 3.** Section 37-7-713, Mississippi Code of 1972, is
200 amended as follows:

201 37-7-713. (1) In all special municipal separate school
202 districts where the district embraces less than the entire area of
203 the county and where the majority of the educable children of such
204 district reside outside the limits of the municipality, * * *
205 the * * * special municipal separate school district shall be
206 governed by a board of trustees consisting of five (5) members, to
207 be elected by the qualified electors of such municipal separate
208 school district * * * in the manner provided by this section.
209 On the first Tuesday after the first Monday in November 2007, and
210 every four (4) years thereafter, an election shall be held in each
211 special municipal separate school district as constituted in this
212 section, in the same manner and at the same time as general state
213 and county elections are held and conducted, for the purpose of
214 electing the members of the boards of trustees established under
215 the provisions of this section. All members of the boards of
216 trustees as constituted in this section shall take office on the
217 first Monday of January following the date of their election and
218 shall serve for a term of four (4) years. The five (5) members of
219 the board of trustees shall be elected from trustee election
220 districts by the qualified electors of the district, as provided
221 in this section. The governing authorities of the municipality
222 shall apportion the special municipal separate school district
223 into five (5) special trustee election districts as nearly equal
224 as possible according to population, incumbency and other factors
225 pronounced by the courts before the effective date of House Bill
226 No. _____, 2004 Regular Session. The municipal governing
227 authorities shall place upon their minutes the boundaries
228 determined for the new five (5) trustee election districts. The
229 municipal governing authorities shall thereafter publish the same
230 in a newspaper having general circulation within the school
231 district for at least three (3) consecutive weeks; and after
232 having given notice of publication and recording the same upon the
233 minutes of the municipal governing authorities, the new district

234 lines shall be effective thereafter. The term of each incumbent
235 trustee serving on the date that House Bill No. _____, 2004 Regular
236 Session, becomes effective that otherwise would expire after the
237 first Monday of January 2008, shall expire on the first Monday of
238 January 2008. Each incumbent trustee whose term expires after the
239 effective date of House Bill No. _____, 2004 Regular Session, but
240 before the first Monday of January 2008 shall continue to serve
241 for the remainder of the unexpired term, at which time the vacancy
242 shall be filled in the manner provided by subsection (2) of this
243 section.

244 (2) Vacancies in the membership of the board of trustees of
245 any special municipal separate school district as constituted in
246 this section shall be filled by appointment, within sixty (60)
247 days after the vacancy occurs, by the governing authorities of the
248 municipality. The appointee shall be selected from the qualified
249 electors of the district in which the vacancy occurs. The
250 president of the municipal governing authorities shall certify to
251 the Secretary of State the fact of the appointment, and the
252 Governor shall commission the person appointed. If the unexpired
253 term is longer than six (6) months, the appointee shall serve
254 until a successor is elected as provided in this section, unless
255 the vacancy occurs ninety (90) or fewer days before the general
256 election in a year in which an election would normally be held for
257 that office as provided by law, in which case the person appointed
258 shall serve the unexpired portion of the term. The vacancies
259 shall be filled for the unexpired term by the qualified electors
260 at the next regular special election day occurring more than
261 ninety (90) days after the occurrence of the vacancy. The
262 president of the municipal governing authorities, within ten (10)
263 days after the occurrence of the vacancy, shall make an order, in
264 writing, directed to the commissioners of election, directing an
265 election to be held on the next regular special election day to
266 fill the vacancy. The election commissioners shall require each

267 candidate to qualify at least sixty (60) days before the date of
268 the election, and shall give a certificate of election to the
269 person elected, and shall return to the Secretary of State a copy
270 of the order of holding the election and the results of the
271 election, certified by the president of the municipal governing
272 authorities. The Governor shall commission the person elected.
273 The election shall be held in the same manner provided for other
274 municipal office vacancies.

275 However, where only one (1) person has qualified with the
276 commissioners of election to be a candidate within the time
277 provided by law, the commissioners of election shall certify to
278 the municipal governing authorities that there is only one (1)
279 candidate. The municipal governing authorities shall dispense
280 with the election and shall appoint the certified candidate to
281 fill the unexpired term. The president of the municipal governing
282 authorities shall certify to the Secretary of State the candidate
283 so appointed to serve in the office and the Governor shall
284 commission the candidate. If no person has qualified at least
285 sixty (60) days before the date of the election, the commissioners
286 of election shall certify that fact to the municipal governing
287 authorities, which shall dispense with the election and fill the
288 vacancy by appointment. The president of the municipal governing
289 authorities shall certify to the Secretary of State the fact of
290 the appointment, and the Governor shall commission the appointed
291 person.

292 **SECTION 4.** Sections 37-7-221, 37-7-223, 37-7-227 and
293 37-7-229, Mississippi Code of 1972, which provide certain methods
294 for electing trustees of consolidated and line consolidated school
295 districts, are repealed.

296 **SECTION 5.** Sections 37-7-705, 37-7-707, 37-7-709, 37-7-711,
297 37-7-715 and 37-7-717, Mississippi Code of 1972, which provide
298 certain methods for selecting trustees of special municipal
299 separate school districts, are repealed.

300 **SECTION 6.** The Attorney General of the State of Mississippi
301 shall submit this act, immediately upon approval by the Governor,
302 or upon approval by the Legislature subsequent to a veto, to the
303 Attorney General of the United States or to the United States
304 District Court for the District of Columbia in accordance with the
305 provisions of the Voting Rights Act of 1965, as amended and
306 extended.

307 **SECTION 7.** This act shall take effect and be in force from
308 and after July 1, 2004, or the date it is effectuated under
309 Section 5 of the Voting Rights Act of 1965, as amended and
310 extended, whichever is later.