

By: Representative Chism

To: Education; Apportionment
and Elections

HOUSE BILL NO. 163

1 AN ACT TO AMEND SECTION 37-7-203, MISSISSIPPI CODE OF 1972,
 2 TO PROVIDE THAT THE MEMBERS OF THE BOARDS OF TRUSTEES OF MUNICIPAL
 3 SEPARATE SCHOOL DISTRICTS SHALL BE ELECTED FROM SPECIAL TRUSTEE
 4 ELECTION DISTRICTS BY THE QUALIFIED ELECTORS OF THOSE DISTRICTS;
 5 TO PROVIDE THAT THE ELECTION SHALL BE HELD EVERY FOUR YEARS IN THE
 6 SAME MANNER AND AT THE SAME TIME AS ELECTIONS ARE HELD FOR OTHER
 7 MUNICIPAL OFFICERS; TO AMEND SECTION 37-7-703, MISSISSIPPI CODE OF
 8 1972, TO PROVIDE THAT THE MEMBERS OF THE BOARDS OF TRUSTEES OF
 9 SPECIAL MUNICIPAL SEPARATE SCHOOL DISTRICTS THAT INCLUDE THE
 10 ENTIRE COUNTY SHALL BE ELECTED IN THE SAME MANNER AS TRUSTEES OF
 11 MUNICIPAL SEPARATE SCHOOL DISTRICTS AT THE SAME TIME AS GENERAL
 12 STATE AND COUNTY ELECTIONS ARE HELD; TO AMEND SECTION 37-7-713,
 13 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE ELECTION OF MEMBERS
 14 OF THE BOARDS OF TRUSTEES OF SPECIAL MUNICIPAL SEPARATE SCHOOL
 15 DISTRICTS IN THE SAME MANNER AND AT THE SAME TIME AS MUNICIPAL
 16 ELECTIONS AND TO ESTABLISH A TERM OF FOUR YEARS FOR THAT OFFICE;
 17 TO REPEAL SECTIONS 37-7-204, 37-7-209 AND 37-7-213 THROUGH
 18 37-7-219, MISSISSIPPI CODE OF 1972, WHICH PROVIDE CERTAIN METHODS
 19 FOR ELECTING TRUSTEES OF MUNICIPAL SEPARATE SCHOOL DISTRICTS FROM
 20 ADDED TERRITORY; TO REPEAL SECTIONS 37-7-705, 37-7-707, 37-7-709,
 21 37-7-711, 37-7-715 AND 37-7-717, MISSISSIPPI CODE OF 1972, WHICH
 22 PROVIDE CERTAIN METHODS FOR SELECTING TRUSTEES OF SPECIAL
 23 MUNICIPAL SEPARATE SCHOOL DISTRICTS; TO AMEND SECTION 37-5-61,
 24 MISSISSIPPI CODE OF 1972, TO DELETE THE PROVISION OF LAW THAT
 25 PROVIDES THAT COUNTY SUPERINTENDENTS OF EDUCATION SHALL BE ELECTED
 26 IN THE SAME MANNER AND TIME AS OTHER COUNTY OFFICERS AND FOR A
 27 TERM OF FOUR YEARS; TO AMEND SECTION 37-9-13, MISSISSIPPI CODE OF
 28 1972, TO PROVIDE FOR THE APPOINTMENT OF ALL SUPERINTENDENTS OF
 29 SCHOOLS FROM AND AFTER JANUARY 1, 2008; TO AMEND SECTION 37-9-25,
 30 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; TO REPEAL SECTION
 31 37-9-12, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR A REFERENDUM
 32 ON THE QUESTION OF RETAINING THE ELECTIVE METHOD OF CHOOSING THE
 33 COUNTY SUPERINTENDENT OF EDUCATION; TO REPEAL, ON JANUARY 1, 2008,
 34 SECTIONS 37-5-63 THROUGH 37-5-75, MISSISSIPPI CODE OF 1972, WHICH
 35 PROVIDE FOR THE ELECTION OF COUNTY SUPERINTENDENTS OF EDUCATION;
 36 TO AMEND SECTION 23-15-297, MISSISSIPPI CODE OF 1972, IN
 37 CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

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

41 37-7-203. (1) The boards of trustees of all municipal
 42 separate school districts created under the provisions of Article
 43 1 of this chapter, either with or without added territory, shall
 44 consist of five (5) members. On the first Tuesday after the first

45 Monday in June 2009, and every four (4) years thereafter, an
46 election shall be held in each municipal separate school district
47 in this state, in the same manner and at the same time as the
48 regular municipal elections are held, for the purpose of electing
49 the members of the boards of trustees established under the
50 provisions of this article. All members of the boards of trustees
51 as constituted in this section shall take office on the first
52 Monday of July following the date of their election and shall
53 serve for a term of four (4) years. The five (5) members of the
54 board of trustees shall be elected from trustee election districts
55 by the qualified electors of the district, as provided in this
56 section. The governing authorities of the municipality shall
57 apportion the municipal separate school district, including added
58 territory, into five (5) trustee election districts as nearly
59 equal as possible according to population, incumbency and other
60 factors pronounced by the courts before the effective date of
61 House Bill No. _____, 2005 Regular Session. The municipal
62 governing authorities shall place upon their minutes the
63 boundaries determined for the five (5) new trustee election
64 districts. The municipal governing authorities shall thereafter
65 publish the same in a newspaper having general circulation within
66 the school district for at least three (3) consecutive weeks; and
67 after having given notice of publication and recording the same
68 upon the minutes of the municipal governing authorities, the new
69 district lines shall be effective thereafter. The term of each
70 incumbent trustee serving on the date that House Bill No. _____,
71 2005 Regular Session, becomes effective that otherwise would
72 expire after the first Monday of July 2009, shall expire on the
73 first Monday of July 2009. Each incumbent trustee whose term
74 expires after the effective date of House Bill No. _____, 2005
75 Regular Session, but before the first Monday of July 2009 shall
76 continue to serve for the remainder of the unexpired term, at

77 which time the vacancy shall be filled in the manner provided by
78 subsection (2) of this section.

79 (2) Vacancies in the membership of the board of trustees of
80 any municipal separate school district shall be filled by
81 appointment, within sixty (60) days after the vacancy occurs, by
82 the governing authorities of the municipality. The appointee
83 shall be selected from the qualified electors of the district in
84 which the vacancy occurs. The president of the municipal
85 governing authorities shall certify to the Secretary of State the
86 fact of the appointment, and the Governor shall commission the
87 person appointed. If the unexpired term is longer than six (6)
88 months, the appointee shall serve until a successor is elected as
89 provided in this section, unless the vacancy occurs ninety (90) or
90 fewer days before the general election in a year in which an
91 election would normally be held for that office as provided by
92 law, in which case the person appointed shall serve the unexpired
93 portion of the term. The vacancies shall be filled for the
94 unexpired term by the qualified electors at the next regular
95 special election day occurring more than ninety (90) days after
96 the occurrence of the vacancy. The president of the municipal
97 governing authorities, within ten (10) days after the occurrence
98 of the vacancy, shall make an order, in writing, directed to the
99 commissioners of election, directing an election to be held on the
100 next regular special election day to fill the vacancy. The
101 election commissioners shall require each candidate to qualify at
102 least sixty (60) days before the date of the election, and shall
103 give a certificate of election to the person elected, and shall
104 return to the Secretary of State a copy of the order of holding
105 the election and the results of the election, certified by the
106 president of the municipal governing authorities. The Governor
107 shall commission the person elected. The election shall be held
108 in the same manner provided for other municipal office vacancies.

109 However, where only one (1) person has qualified with the
110 commissioners of election to be a candidate within the time
111 provided by law, the commissioners of election shall certify to
112 the municipal governing authorities that there is only one (1)
113 candidate. The municipal governing authorities shall dispense
114 with the election and shall appoint the certified candidate to
115 fill the unexpired term. The president of the municipal governing
116 authorities shall certify to the Secretary of State the candidate
117 so appointed to serve in the office and the Governor shall
118 commission the candidate. If no person has qualified at least
119 sixty (60) days before the date of the election, the commissioners
120 of election shall certify that fact to the municipal governing
121 authorities, which shall dispense with the election and fill the
122 vacancy by appointment. The president of the municipal governing
123 authorities shall certify to the Secretary of State the fact of
124 the appointment, and the Governor shall commission the appointed
125 person.

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

128 37-7-703. The boards of trustees of all * * * special
129 municipal separate school districts which embrace the entire
130 county regardless of whether a majority of the inhabitants of the
131 county reside within or outside the corporate limits of the
132 municipality, shall consist of five (5) members. On the first
133 Tuesday after the first Monday in November 2007 and every four (4)
134 years thereafter, an election shall be held in the same manner and
135 at the same time as general state and county elections are held
136 and conducted, for the purpose of electing the members of the
137 boards of trustees in all special municipal separate school
138 districts that embrace the entire county. All members of the
139 boards of trustees of special municipal separate school districts
140 as constituted in this section shall take office on the first
141 Monday of January following the date of their election and shall

142 serve for a term of four (4) years. Vacancies in the membership
143 of the board of trustees of any special municipal separate school
144 district shall be filled in the manner provided in subsection (2)
145 of Section 37-7-203. The five (5) members of the board of
146 trustees shall be elected from trustee election districts by the
147 qualified electors of the district, as provided in this section.
148 The governing authorities of the municipality shall apportion the
149 municipal separate school district, including added territory,
150 into five (5) trustee election districts as nearly equal as
151 possible according to population, incumbency and other factors
152 pronounced by the courts before the effective date of House Bill
153 No. _____, 2005 Regular Session. The municipal governing
154 authorities shall place upon their minutes the boundaries
155 determined for the five (5) new trustee election districts. The
156 municipal governing authorities shall thereafter publish the same
157 in a newspaper having general circulation within the school
158 district for at least three (3) consecutive weeks; and after
159 having given notice of publication and recording the same upon the
160 minutes of the municipal governing authorities, the new district
161 lines shall be effective thereafter. The term of each incumbent
162 trustee serving on the date that House Bill No. _____, 2005 Regular
163 Session, becomes effective that otherwise would expire after the
164 first Monday of January 2008, shall expire on the first Monday of
165 January 2008. Each incumbent trustee whose term expires after the
166 effective date of House Bill No. _____, 2005 Regular Session, but
167 before the first Monday of January 2008 shall continue to serve
168 for the remainder of the unexpired term, at which time the vacancy
169 shall be filled in the manner provided in subsection (2) of
170 Section 37-7-203.

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

173 37-7-713. (1) In all special municipal separate school
174 districts where the district embraces less than the entire area of

175 the county and where the majority of the educable children of such
176 district reside outside the limits of the municipality, * * *
177 the * * * special municipal separate school district shall be
178 governed by a board of trustees consisting of five (5) members, to
179 be elected by the qualified electors of such municipal separate
180 school district * * * in the manner provided by this section.
181 On the first Tuesday after the first Monday in June 2009, and
182 every four (4) years thereafter, an election shall be held in each
183 special municipal separate school district as constituted in this
184 section, in the same manner and at the same time as the regular
185 municipal elections are held and conducted, for the purpose of
186 electing the members of the boards of trustees established under
187 the provisions of this section. All members of the boards of
188 trustees as constituted in this section shall take office on the
189 first Monday of July following the date of their election and
190 shall serve for a term of four (4) years. The five (5) members of
191 the board of trustees shall be elected from trustee election
192 districts by the qualified electors of the district, as provided
193 in this section. The governing authorities of the municipality
194 shall apportion the special municipal separate school district
195 into five (5) special trustee election districts as nearly equal
196 as possible according to population, incumbency and other factors
197 pronounced by the courts before the effective date of House Bill
198 No. _____, 2005 Regular Session. The municipal governing
199 authorities shall place upon their minutes the boundaries
200 determined for the five (5) new trustee election districts. The
201 municipal governing authorities shall thereafter publish the same
202 in a newspaper having general circulation within the school
203 district for at least three (3) consecutive weeks; and after
204 having given notice of publication and recording the same upon the
205 minutes of the municipal governing authorities, the new district
206 lines shall be effective thereafter. The term of each incumbent
207 trustee serving on the date that House Bill No. _____, 2005 Regular

208 Session, becomes effective that otherwise would expire after the
209 first Monday of July 2009, shall expire on the first Monday of
210 July 2009. Each incumbent trustee whose term expires after the
211 effective date of House Bill No. _____, 2005 Regular Session, but
212 before the first Monday of July 2009 shall continue to serve for
213 the remainder of the unexpired term, at which time the vacancy
214 shall be filled in the manner provided by subsection (2) of
215 Section 37-7-203.

216 (2) Vacancies in the membership of the board of trustees of
217 any special municipal separate school district as constituted in
218 this section shall be filled in the manner provided by subsection
219 (2) of Section 37-7-203.

220 **SECTION 4.** Sections 37-7-204, 37-7-209, 37-7-213, 37-7-215,
221 37-7-217 and 37-7-219, Mississippi Code of 1972, which provide
222 certain methods for electing trustees of municipal separate school
223 districts from added territory, are repealed.

224 **SECTION 5.** Sections 37-7-705, 37-7-707, 37-7-709, 37-7-711,
225 37-7-715 and 37-7-717, Mississippi Code of 1972, which provide
226 certain methods for selecting trustees of special municipal
227 separate school districts, are repealed.

228 **SECTION 6.** Section 37-5-61, Mississippi Code of 1972, is
229 amended as follows:

230 37-5-61. (1) There shall be a county superintendent of
231 education in each county.

232 (2) The superintendent shall serve as the executive
233 secretary of the county board of education, but shall have no vote
234 in the proceedings before the board and no voice in fixing the
235 policies thereof.

236 (3) In addition, the superintendent shall be the director of
237 all schools in the county outside the municipal separate school
238 districts.

239 * * *

240 **SECTION 7.** Section 37-9-13, Mississippi Code of 1972, is
241 amended as follows:

242 37-9-13. (1) From and after January 1, 2008, in all public
243 school districts, the school board, on or before January 15 of
244 each year, shall appoint the superintendent of schools of the
245 district.

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

251 **SECTION 8.** Section 37-9-25, Mississippi Code of 1972, is
252 amended as follows:

253 37-9-25. The school board shall have the power and
254 authority, in its discretion, to employ the superintendent * * *
255 for not exceeding four (4) scholastic years and the principals or
256 licensed employees for not exceeding three (3) scholastic years.
257 In such case, contracts shall be entered into with such
258 superintendents, principals and licensed employees for the number
259 of years for which they have been employed. All such contracts
260 with licensed employees shall for the years after the first year
261 thereof be subject to the contingency that the licensed employee
262 may be released if, during the life of the contract, the average
263 daily attendance should decrease from that existing during the
264 previous year and thus necessitate a reduction in the number of
265 licensed employees during any year after the first year of the
266 contract. However, in all such cases the licensed employee must
267 be released before July 1 or at least thirty (30) days prior to
268 the beginning of the school term, whichever date should occur
269 earlier. The salary to be paid for the years after the first year
270 of such contract shall be subject to revision, either upward or
271 downward, in the event of an increase or decrease in the funds
272 available for the payment thereof, but, unless such salary is

273 revised prior to the beginning of a school year, it shall remain
274 for such school year at the amount fixed in such contract.
275 However, where school district funds, other than adequate
276 education program funds, are available during the school year in
277 excess of the amount anticipated at the beginning of the school
278 year the salary to be paid for such year may be increased to the
279 extent that such additional funds are available and nothing herein
280 shall be construed to prohibit same.

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

285 **SECTION 10.** Sections 37-5-63, 37-5-65, 37-5-67, 37-5-69,
286 37-5-71 and 37-5-75, Mississippi Code of 1972, which provide for
287 the election of county superintendents of education, are repealed.

288 **SECTION 11.** Section 23-15-297, Mississippi Code of 1972, is
289 amended as follows:

290 23-15-297. All candidates upon entering the race for party
291 nominations for office shall first pay to the proper officer as
292 provided for in Section 23-15-299 for each primary election the
293 following amounts:

294 (a) Candidates for Governor not to exceed Three Hundred
295 Dollars (\$300.00).

296 (b) Candidates for Lieutenant Governor, Attorney
297 General, Secretary of State, State Treasurer, Auditor of Public
298 Accounts, Commissioner of Insurance, Commissioner of Agriculture
299 and Commerce, State Highway Commissioner and State Public Service
300 Commissioner, not to exceed Two Hundred Dollars (\$200.00).

301 (c) Candidates for district attorney, not to exceed One
302 Hundred Dollars (\$100.00).

303 (d) Candidates for State Senator, State Representative,
304 sheriff, chancery clerk, circuit clerk, tax assessor, tax

305 collector, county attorney * * * and board of supervisors, not to
306 exceed Fifteen Dollars (\$15.00).

307 (e) Candidates for county surveyor, county coroner,
308 justice court judge and constable, not to exceed Ten Dollars
309 (\$10.00).

310 (f) Candidates for United States Senator, not to exceed
311 Three Hundred Dollars (\$300.00).

312 (g) Candidates for United States Representative, not to
313 exceed Two Hundred Dollars (\$200.00).

314 **SECTION 12.** The Attorney General of the State of Mississippi
315 shall submit this act, immediately upon approval by the Governor,
316 or upon approval by the Legislature subsequent to a veto, to the
317 Attorney General of the United States or to the United States
318 District Court for the District of Columbia in accordance with the
319 provisions of the Voting Rights Act of 1965, as amended and
320 extended.

321 **SECTION 13.** Sections 1 through 7 of this act shall take
322 effect and be in force from and after July 1, 2005, or the date
323 they are effectuated under Section 5 of the Voting Rights Act of
324 1965, as amended and extended, whichever is later. Sections 8
325 through 11 of this act shall take effect and be in force from and
326 after January 1, 2008, or the date they are effectuated under
327 Section 5 of the Voting Rights Act of 1965, as amended and
328 extended, whichever is later.