

By: Representative Moore

To: Education; Apportionment  
and Elections

## HOUSE BILL NO. 391

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

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

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

24 37-5-7. (1) On the first Tuesday after the first Monday in  
 25 November 2008 and every four (4) years thereafter, an election  
 26 shall be held in each county in this state in the same manner and  
 27 at the same time as the presidential election is held and  
 28 conducted, \* \* \* for the purpose of electing the county boards of  
 29 education established under the provisions of this chapter. \* \* \*  
 30 All members of the county board of education \* \* \* shall take  
 31 office on the first Monday of January following the date of their  
 32 election and shall serve for a term of four (4) years. However,  
 33 in order to provide for an orderly transition, the term of each  
 34 member of the board serving on the date that House Bill No. \_\_\_\_\_,  
 35 2007 Regular Session, becomes effective that otherwise would  
 36 expire after the first Monday in January 2009, shall expire on the

37 first Monday of January 2009. Each member of the board whose term  
38 expires after the effecting date of House Bill No.\_\_\_\_, 2007  
39 Regular Session, but before the first Monday of January 2009 shall  
40 continue to serve for the remainder of the unexpired term, at  
41 which time the vacancy shall be filled in the manner provided in  
42 Section 37-5-19.

43 (2) On the first Tuesday after the first Monday in November  
44 2008 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 the presidential election is held and conducted, for the  
48 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. \_\_\_\_\_, 2007 Regular Session, becomes effective that otherwise  
55 would expire after the first Monday in January 2009, shall expire  
56 on the first Monday of January 2009. Each member of the board  
57 whose term expires after the effective date of House Bill No.\_\_\_\_,  
58 2007 Regular Session, but before the first Monday of January 2009  
59 shall continue to serve for the remainder of the unexpired term,  
60 at which time the vacancy shall be filled in the manner provided  
61 in Section 37-5-19.

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

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 On the first Tuesday after the first Monday in November 2008  
93 and every four (4) years thereafter, in each consolidated school  
94 district \* \* \* an election shall be held in the same manner and at  
95 the same time as the presidential election is held and conducted,  
96 for the purpose of electing the board of trustees of such  
97 district. At the election, the members of the \* \* \* board \* \* \*  
98 shall be elected for a term of four (4) years. However, in order  
99 to provide for an orderly transition, the term of each member of  
100 the board serving on the date that House Bill No. \_\_\_\_\_, 2007  
101 Regular Session, becomes effective that otherwise would expire  
102 after the first Monday in January 2009, shall expire on the first

103 Monday of January 2009. Each member of the board whose term  
104 expires after the effective date of House Bill No. \_\_\_\_\_, 2007  
105 Regular Session, but before the first Monday of January 2009 shall  
106 continue to serve for the remainder of the unexpired term, at  
107 which time the vacancy shall be filled in the manner provided in  
108 this paragraph. All members of the \* \* \* board of trustees shall  
109 take office on the first Monday of January following the date of  
110 their election. All vacancies which may occur during a term shall  
111 be filled by appointment of the consolidated school district  
112 trustees, but the person so appointed shall serve only until the  
113 next general election following such appointment, at which time a  
114 person shall be elected for the remainder of the unexpired term at  
115 the same time and in the same manner as a trustee is elected for  
116 the full term then expiring. The person so elected to the  
117 unexpired term shall take office immediately. Said appointee  
118 shall be selected from the qualified electors of the district in  
119 which the vacancy occurs.

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

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

167 On the first Tuesday after the first Monday in November 2008  
168 and every four (4) years thereafter, in each line consolidated

169 school district \* \* \* an election shall be held in the same manner  
170 and at the same time as the presidential election is held and  
171 conducted, for the purpose of electing the board of trustees of  
172 such district. At the election, the members of the \* \* \*  
173 board \* \* \* shall be elected for a term of four (4) years.  
174 However, in order to provide for an orderly transition, the term  
175 of each member of the board serving on the date that House Bill  
176 No.\_\_\_\_, 2007 Regular Session, becomes effective that otherwise  
177 would expire after the first Monday in January 2009, shall expire  
178 on the first Monday of January 2009. Each member of the board  
179 whose term expires after the effective date of House Bill No.\_\_\_\_,  
180 2007 Regular Session, but before the first Monday of January 2009  
181 shall continue to serve for the remainder of the unexpired term,  
182 at which time the vacancy shall be filled in the manner provided  
183 in this paragraph. All members of the \* \* \* board of trustees  
184 shall take office on the first Monday of January following the  
185 date of their election. In all elections, the trustee elected  
186 shall be a resident and qualified elector of the district entitled  
187 to the representation upon the board, and he shall be elected only  
188 by the qualified electors of such district. All vacancies which  
189 may occur during a term of office shall be filled by appointment  
190 of the consolidated line school district trustees, but the person  
191 so appointed shall serve only until the next general election  
192 following such appointment, at which time a person shall be  
193 elected for the remainder of the unexpired term at the same time  
194 and in the same manner as the trustee is elected for the full term  
195 then expiring. The person so elected to the unexpired term shall  
196 take office immediately.

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

199       37-7-713. (1) In all special municipal separate school  
200 districts where the district embraces less than the entire area of  
201 the county and where the majority of the educable children of such

202 district reside outside the limits of the municipality, \* \* \*  
203 the \* \* \* special municipal separate school district shall be  
204 governed by a board of trustees consisting of five (5) members, to  
205 be elected by the qualified electors of such municipal separate  
206 school district \* \* \* in the manner provided by this section.  
207 On the first Tuesday after the first Monday in November 2008, and  
208 every four (4) years thereafter, an election shall be held in each  
209 special municipal separate school district as constituted in this  
210 section, in the same manner and at the same time as the  
211 presidential election is held and conducted, for the purpose of  
212 electing the members of the boards of trustees established under  
213 this section. All members of the boards of trustees as  
214 constituted in this section shall take office on the first Monday  
215 of January following the date of their election and shall serve  
216 for a term of four (4) years. The five (5) members of the board  
217 of trustees shall be elected from trustee election districts by  
218 the qualified electors of the district, as provided in this  
219 section. The governing authorities of the municipality shall  
220 apportion the special municipal separate school district into five  
221 (5) special trustee election districts as nearly equal as possible  
222 according to population, incumbency and other factors pronounced  
223 by the courts before the effective date of House Bill No.\_\_\_\_\_,  
224 2007 Regular Session. The municipal governing authorities shall  
225 place upon their minutes the boundaries determined for the new  
226 five (5) trustee election districts. The municipal governing  
227 authorities shall thereafter publish the same in a newspaper  
228 having general circulation within the school district for at least  
229 three (3) consecutive weeks; and after having given notice of  
230 publication and recording the same upon the minutes of the  
231 municipal governing authorities, the new district lines shall be  
232 effective. The term of each incumbent trustee serving on the date  
233 that House Bill No.\_\_\_\_\_, 2007 Regular Session, becomes effective  
234 that otherwise would expire after the first Monday of January 2009

235 shall expire on the first Monday of January 2009. Each incumbent  
236 trustee whose term expires after the effective date of House Bill  
237 No. \_\_\_\_\_, 2007 Regular Session, but before the first Monday of  
238 January 2009 shall continue to serve for the remainder of the  
239 unexpired term, at which time the vacancy shall be filled in the  
240 manner provided by subsection (2) of this section.

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



268 election, certified by the president of the municipal governing  
269 authorities. The Governor shall commission the person elected.  
270 The election shall be held in the same manner provided for other  
271 municipal office vacancies.

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

289 **SECTION 4.** Sections 37-7-221, 37-7-223, 37-7-227 and  
290 37-7-229, Mississippi Code of 1972, which provide certain methods  
291 for electing trustees of consolidated and line consolidated school  
292 districts, are repealed.

293 **SECTION 5.** Sections 37-7-705, 37-7-707, 37-7-709, 37-7-711,  
294 37-7-715 and 37-7-717, Mississippi Code of 1972, which provide  
295 certain methods for selecting trustees of special municipal  
296 separate school districts, are repealed.

297 **SECTION 6.** The Attorney General of the State of Mississippi  
298 shall submit this act, immediately upon approval by the Governor,  
299 or upon approval by the Legislature subsequent to a veto, to the  
300 Attorney General of the United States or to the United States

301 District Court for the District of Columbia in accordance with the  
302 provisions of the Voting Rights Act of 1965, as amended and  
303 extended.

304       **SECTION 7.** This act shall take effect and be in force from  
305 and after July 1, 2007, or the date it is effectuated under  
306 Section 5 of the Voting Rights Act of 1965, as amended and  
307 extended, whichever is later.