

By: Senator(s) Hewes, Watson, Yancey

To: Education

SENATE BILL NO. 2149

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 BEGINNING WITH THE
5 MUNICIPAL ELECTIONS IN THE YEAR 2009; TO PROVIDE THAT SUCH
6 ELECTION SHALL BE HELD EVERY FOUR YEARS IN THE SAME MANNER AS
7 ELECTIONS ARE HELD FOR OTHER MUNICIPAL OFFICERS; TO PROVIDE THAT
8 THE LOCAL SCHOOL BOARD SHALL APPORTION THE NEW TRUSTEE ELECTION
9 DISTRICTS; TO AMEND SECTION 37-7-703, MISSISSIPPI CODE OF 1972, TO
10 PROVIDE THAT THE TRUSTEES OF SPECIAL MUNICIPAL SEPARATE SCHOOL
11 DISTRICTS SHALL BE ELECTED IN THE SAME MANNER AS TRUSTEES OF
12 MUNICIPAL SEPARATE SCHOOL DISTRICTS; TO AMEND SECTIONS 37-5-9,
13 37-7-211 AND 37-7-711, MISSISSIPPI CODE OF 1972, TO PROVIDE A
14 UNIFORM NUMBER OF SIGNATURES ON PETITIONS OF NOMINATION TO RUN FOR
15 THE OFFICE OF ELECTED SCHOOL BOARD AND TO REQUIRE PETITIONS TO BE
16 FILED AT LEAST 60 DAYS PRIOR TO THE ELECTION; TO REPEAL SECTIONS
17 37-7-209 THROUGH 37-7-219, MISSISSIPPI CODE OF 1972, WHICH PROVIDE
18 CERTAIN METHODS FOR ELECTING TRUSTEES OF MUNICIPAL SEPARATE SCHOOL
19 DISTRICTS FROM ADDED TERRITORY; TO REPEAL SECTIONS 37-7-705
20 THROUGH 37-7-717, MISSISSIPPI CODE OF 1972, WHICH PROVIDE CERTAIN
21 METHODS FOR SELECTING TRUSTEES OF SPECIAL MUNICIPAL SEPARATE
22 SCHOOL DISTRICTS; TO AMEND SECTION 37-9-13, MISSISSIPPI CODE OF
23 1972, TO PROVIDE FOR THE APPOINTMENT OF ALL SUPERINTENDENTS OF
24 SCHOOLS FROM AND AFTER JANUARY 1, 2012; TO AMEND SECTION 37-9-25,
25 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; TO REPEAL SECTION
26 37-9-12, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR A REFERENDUM
27 ON THE QUESTION OF RETAINING THE ELECTIVE METHOD OF CHOOSING THE
28 COUNTY SUPERINTENDENT OF EDUCATION; TO REPEAL SECTIONS 37-5-61
29 THROUGH 37-5-71, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR THE
30 ELECTION OF COUNTY SUPERINTENDENTS OF EDUCATION; AND FOR RELATED
31 PURPOSES.

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

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

35 37-7-203. (1) The boards of trustees of all municipal
36 separate school districts created under the provisions of Article
37 1 of this chapter, either with or without added territory, shall
38 consist of five (5) members * * *. On the first Tuesday after the
39 first Monday in June 2009, and every four (4) years thereafter, an
40 election shall be held in each municipal separate school district
41 in this state, in the same manner and at the same time as the



42 regular municipal elections are held, for the purpose of electing
43 the members of the boards of trustees established under the
44 provisions of this article. Provided, however, that in any
45 special charter municipality where the general municipal election
46 date is different from June 2009, the members of the school board
47 of the municipal separate school district shall be elected as
48 provided in this section in the same manner and at the same time
49 as the general municipal elections are held in such special
50 charter municipality. All members of the boards of trustees as
51 herein constituted shall take office on the first Monday of July
52 following the date of their election and shall serve for a term of
53 four (4) years. The five (5) members of the board of trustees of
54 such school district shall be elected from special trustee
55 election districts by the qualified electors thereof, as herein
56 provided. The board of trustees of such school district shall
57 apportion the municipal separate school district, including added
58 territory, into five (5) special trustee election districts as
59 nearly equal as possible according to population, incumbency and
60 other factors heretofore pronounced by the courts. The board of
61 trustees shall place upon its minutes the boundaries determined
62 for the new five-trustee election districts. The board of
63 trustees shall thereafter publish the same in a newspaper of
64 general circulation within said school district for at least three
65 (3) consecutive weeks; and after having given notice of
66 publication and recording the same upon the minutes of the board
67 of trustees. When the orders of the board of trustees adopting
68 the special trustee election district lines have been entered and
69 are final, the new district lines shall be submitted to the
70 Attorney General of the United States for preclearance or to the
71 United States District Court for the District of Columbia for a
72 declaratory judgment in accordance with the provisions of the
73 Voting Rights Act of 1965, as amended and extended. In the event
74 the new trustee election districts are either precleared by the



75 United States Department of Justice, or approved by the United
76 States District Court, the board of trustees shall formally
77 declare the new districts as effective. All incumbent trustees
78 holding office at the time of the creation of such trustee
79 election districts shall continue holding their respective
80 offices, provided they reside within the new district, for the
81 remainder of the term of office to which they have heretofore been
82 selected, and their successors shall be elected from the new
83 trustee election districts constituted herein in the manner
84 provided for in this section.

85 (2) Vacancies in the membership of the board of trustees of
86 any municipal separate school district shall be filled by
87 appointment, within sixty (60) days after the vacancy occurs, by
88 the governing authorities of such municipality. Such appointee
89 shall be selected from the qualified electors of the district in
90 which the vacancy occurs. The president of the municipal
91 governing authority shall certify to the Secretary of State the
92 fact of the appointment, and the person so appointed shall be
93 commissioned by the Governor; and if the unexpired term be longer
94 than six (6) months, such appointee shall serve until a successor
95 is elected as hereinafter provided, unless the vacancy shall occur
96 before ninety (90) days prior to the general election in a year in
97 which an election would normally be held for that office as
98 provided by law, in which case the person so appointed shall serve
99 the unexpired portion of the term. Such vacancies shall be filled
100 for the unexpired term by the qualified electors at the next
101 regular special election day occurring more than ninety (90) days
102 after the occurrence of the vacancy. The president of the
103 municipal governing authority shall, within ten (10) days after
104 the happening of the vacancy, make an order, in writing, directed
105 to the commissioners of election, commanding an election to be
106 held on the next regular special election day to fill the vacancy.
107 The election commissioners shall require each candidate to qualify



108 at least sixty (60) days before the date of the election, and
109 shall give a certificate of election to the person elected, and
110 shall return to the Secretary of State a copy of the order of
111 holding the election showing the results thereof, certified by the
112 president of the municipal governing authority. Such election
113 shall be held in the same manner provided for other municipal
114 office vacancies. The person elected shall be commissioned by the
115 Governor.

116 Provided, however, where only one (1) person shall have
117 qualified with the commissioners of election to be a candidate
118 within the time provided by law, the commissioners of election
119 shall certify to the municipal governing authority that there is
120 but one (1) candidate. Thereupon, the municipal governing
121 authority shall dispense with the election and shall appoint the
122 candidate so certified to fill the unexpired term. The president
123 of the municipal governing authority shall certify to the
124 Secretary of State the candidate so appointed to serve in such
125 office and that candidate shall be commissioned by the Governor.
126 In the event that no person shall have qualified at least sixty
127 (60) days prior to the date of the election, the commissioners of
128 election shall certify that fact to the municipal governing
129 authority which shall dispense with the election and fill the
130 vacancy by appointment. The president of the municipal governing
131 authority shall certify to the Secretary of State the fact of the
132 appointment, and the person so appointed shall be commissioned by
133 the Governor.

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

136 37-7-703. In all such special municipal separate school
137 districts * * *, the board of trustees of such special municipal
138 separate school district shall be elected in the manner provided
139 by subsection (1) of Section 37-7-203, and all of the provisions
140 thereof shall be fully applicable in all respects to the selection



141 and constitution of such board of trustees. Provided, however,
142 that the board of trustees of any special municipal separate
143 school district shall have the authority to apportion the new
144 trustee election districts as provided in Section 37-7-203(1).

145 **SECTION 3.** Section 37-5-9, Mississippi Code of 1972, is
146 amended as follows:

147 37-5-9. The name of any qualified elector who is a candidate
148 for the county board of education shall be placed on the ballot
149 used in the general elections by the county election
150 commissioners, provided that the candidate files with the county
151 election commissioners, not more than ninety (90) days and not
152 less than sixty (60) days prior to the date of such general
153 election, a petition of nomination signed by not less than fifty
154 (50) qualified electors of the county residing within each
155 supervisors district or special county board of education election
156 district, as the case may be. Where there are less than one
157 hundred (100) qualified electors in said supervisors district, it
158 shall only be required that said petition of nomination be signed
159 by at least twenty percent (20%) of the qualified electors of such
160 supervisors district or special county board of education election
161 district, as the case may be. The candidate in each supervisors
162 district who receives the highest number of votes cast in the
163 district shall be declared elected.

164 * * *

165 In no case shall any qualified elector residing within a
166 municipal separate school district or special municipal separate
167 school district be eligible to sign a petition of nomination for
168 any candidate for the county board of education under any of the
169 provisions of this section.

170 **SECTION 4.** Section 37-7-211, Mississippi Code of 1972, is
171 amended as follows:

172 37-7-211. Any person otherwise eligible under the provisions
173 of subsection (1) of Section 37-7-203 who shall desire to be a



174 candidate for the office of trustee must qualify in the following
175 manner in order to be allowed to be considered for election. By
176 5:00 p.m. not more than ninety (90) days and at least sixty (60)
177 days before the election he shall file with the office of the
178 superintendent of the municipal separate school district, or the
179 special municipal separate school district, as the case may be, a
180 petition signed by not less than fifty (50) qualified electors of
181 the area represented by the office which he seeks, either for a
182 full term or an unexpired term, as the case may be, and an
183 affidavit by the candidate offering for election stating his
184 qualifications under the terms of said sections. Where there are
185 less than one hundred (100) qualified electors in said area
186 represented by the trustee, it shall only be required that said
187 petition of nomination be signed by at least twenty percent (20%)
188 of the qualified electors in said area. The petition shall
189 contain an affidavit certifying that all signatures are the
190 personal signatures of each person whose name appears on the
191 petition and that each person is a qualified elector.

192 Unless the petition and affidavit required above shall be
193 filed by 5:00 p.m. not less than sixty (60) days prior to the
194 election, the name of the candidate shall not be considered in the
195 election, and votes cast for any person who has failed to qualify
196 shall not be counted in the election.

197 If after the time for candidates to file the petition and
198 affidavit provided for herein there should be only one (1) person
199 to qualify for the office of trustee, then no election or notice
200 of election shall be necessary and such person shall, if otherwise
201 qualified, be declared elected without opposition.

202 **SECTION 5.** Section 37-7-711, Mississippi Code of 1972, is
203 amended as follows:

204 37-7-711. In all such special municipal separate school
205 districts which may be so organized, reorganized or reconstituted
206 to embrace the entire county in which the majority of the



207 inhabitants of the county reside outside the corporate limits of
208 the municipality or less than the entire county, the name of any
209 qualified elector who is a candidate for the board of trustees of
210 such special municipal separate school district, whether such
211 person be a candidate for an unexpired term or for a full term,
212 shall be placed on the ballot used in the elections, provided that
213 the candidate files with the county election commissioners, not
214 more than ninety (90) days and not less than sixty (60) days prior
215 to the date of such general election, a petition of nomination
216 signed by not less than fifty (50) qualified electors of the
217 trustee election district. Where there are less than one hundred
218 (100) qualified electors in the trustee election district, it
219 shall only be required that such petition of nomination be signed
220 by at least twenty percent (20%) of the qualified electors of the
221 trustee election district. The candidate in each election who
222 receives the highest number of votes cast in the election shall be
223 declared to have been elected.

224 **SECTION 6.** Sections 37-7-209, 37-7-211, 37-7-213, 37-7-215,
225 37-7-217 and 37-7-219, Mississippi Code of 1972, which provide
226 certain methods for electing trustees of municipal separate school
227 districts from added territory, are repealed.

228 **SECTION 7.** Sections 37-7-705, 37-7-707, 37-7-709, 37-7-711,
229 37-7-713, 37-7-715 and 37-7-717, Mississippi Code of 1972, which
230 provide certain methods for selecting trustees of special
231 municipal separate school districts, are repealed.

232 **SECTION 8.** Section 37-9-13, Mississippi Code of 1972, is
233 amended as follows:

234 **[Until December 31, 2011, this section will read as follows:]**

235 37-9-13. Each school district shall have a superintendent of
236 schools, selected in the manner provided by law. No person shall
237 be eligible to the office of superintendent of schools unless such
238 person shall hold a valid administrator's license issued by the



239 State Department of Education and shall have had not less than
240 four (4) years of classroom or administrative experience.

241 **[From and after January 1, 2012, this section will read as**
242 **follows:]**

243 37-9-13. (1) In all public school districts, the school
244 board shall appoint the superintendent of schools of such
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 issued by the State Department of
249 Education and shall have had not less than four (4) years of
250 classroom or administrative experience.

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

253 **[Until December 31, 2011, this section will read as follows:]**

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



272 subject to revision, either upward or downward, in the event of an
273 increase or decrease in the funds available for the payment
274 thereof, but, unless such salary is revised prior to the beginning
275 of a school year, it shall remain for such school year at the
276 amount fixed in such contract. However, where school district
277 funds, other than minimum education program funds, are available
278 during the school year in excess of the amount anticipated at the
279 beginning of the school year the salary to be paid for such year
280 may be increased to the extent that such additional funds are
281 available and nothing herein shall be construed to prohibit same.

282 **[From and after January 1, 2012, this section will read as**
283 **follows:]**

284 37-9-25. The school board shall have the power and
285 authority, in its discretion, to employ the superintendent * * *
286 for not exceeding four (4) scholastic years and the principals or
287 licensed employees for not exceeding three (3) scholastic years.
288 In such case, contracts shall be entered into with such
289 superintendents, principals and licensed employees for the number
290 of years for which they have been employed. All such contracts
291 with licensed employees shall for the years after the first year
292 thereof be subject to the contingency that the licensed employee
293 may be released if, during the life of the contract, the average
294 daily attendance should decrease from that existing during the
295 previous year and thus necessitate a reduction in the number of
296 licensed employees during any year after the first year of the
297 contract. However, in all such cases the licensed employee must
298 be released before July 1 or at least thirty (30) days prior to
299 the beginning of the school term, whichever date should occur
300 earlier. The salary to be paid for the years after the first year
301 of such contract shall be subject to revision, either upward or
302 downward, in the event of an increase or decrease in the funds
303 available for the payment thereof, but, unless such salary is
304 revised prior to the beginning of a school year, it shall remain



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

312 **SECTION 10.** Section 37-9-12, Mississippi Code of 1972, which
313 provides for a referendum on the question of retaining the
314 elective method of choosing the county superintendent of
315 education, is hereby repealed.

316 **SECTION 11.** Sections 37-5-61, 37-5-63, 37-5-65, 37-5-67,
317 37-5-69 and 37-5-71, Mississippi Code of 1972, which provide for
318 the election of county superintendents of education, are hereby
319 repealed, effective January 1, 2012.

320 **SECTION 12.** The Attorney General of the State of Mississippi
321 shall submit this act, immediately upon approval by the Governor,
322 or upon approval by the Legislature subsequent to a veto, to the
323 Attorney General of the United States or to the United States
324 District Court for the District of Columbia in accordance with the
325 provisions of the Voting Rights Act of 1965, as amended and
326 extended.

327 **SECTION 13.** This act shall take effect and be in force from
328 and after the date it is effectuated under Section 5 of the Voting
329 Rights Act of 1965, as amended and extended.

