

By: Senator(s) Tollison, Wiggins, Burton,
Jones, Collins, Polk, Hopson, Clarke, Jackson
(11th), Watson, Jordan, Hudson, Blount

To: Education

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2313

1 AN ACT TO AMEND SECTIONS 37-9-13 AND 37-9-25, MISSISSIPPI
2 CODE OF 1972, TO PROVIDE FOR THE APPOINTMENT OF ALL
3 SUPERINTENDENTS OF SCHOOLS FROM AND AFTER JANUARY 1, 2016; TO
4 AUTHORIZE A REFERENDUM ON THE QUESTION OF RETAINING THE OFFICE OF
5 ELECTED COUNTY SUPERINTENDENT OF EDUCATION IN COUNTIES PURSUANT TO
6 PETITION PRIOR TO JANUARY 1, 2015; TO REPEAL EFFECTIVE JANUARY 1,
7 2016, SECTIONS 37-5-63, 37-5-65, 37-5-67, 37-5-69, 37-5-71 AND
8 37-5-75, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR CHANGING THE
9 POSITION OF COUNTY SUPERINTENDENT OF EDUCATION TO AN APPOINTED
10 OFFICE PURSUANT TO PETITION AND REFERENDUM, PROVIDE FOR THE
11 REESTABLISHMENT OF THE OFFICE AS AN ELECTIVE OFFICE, AUTHORIZE THE
12 APPOINTMENT OF THE COUNTY SUPERINTENDENT OF EDUCATION IN CERTAIN
13 COUNTIES, PROVIDE FOR THE SELECTION AND QUALIFICATIONS OF ELECTED
14 SUPERINTENDENTS IN CERTAIN COUNTIES, PROVIDE FOR THE FILLING OF
15 VACANCIES IN THE OFFICE OF ELECTED COUNTY SUPERINTENDENT OF
16 EDUCATION, AND SECTION 37-9-12, MISSISSIPPI CODE OF 1972, WHICH
17 PROVIDES FOR A REFERENDUM ON THE QUESTION OF RETAINING THE
18 ELECTIVE METHOD OF CHOOSING THE COUNTY SUPERINTENDENT OF
19 EDUCATION; AND FOR RELATED PURPOSES.

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

21 **SECTION 1.** Section 37-9-13, Mississippi Code of 1972, is
22 amended as follows:

23 37-9-13. (1) Each school district shall have a
24 superintendent of schools, selected in the manner provided by law.
25 No person shall be eligible to the office of superintendent of
26 schools unless such person shall hold a valid administrator's
27 license issued by the State Department of Education and shall have
28 had not less than four (4) years of classroom or administrative
29 experience.

30 (2) From and after January 1, 2016, in all public school
31 districts, the local school board shall appoint the superintendent
32 of schools of such district unless the electors in the county have
33 voted to retain the office of elected county superintendent of
34 education as provided in subsection (3). At the expiration of the



35 term of any county superintendent of education elected at the
36 November 2011 general election, the county superintendent of
37 education of said county shall not be elected but shall thereafter
38 be appointed by the local school board in the manner provided in
39 Section 37-9-25, unless the electors in the county have voted to
40 retain the office of elected county superintendent of education
41 pursuant to referendum as provided in subsection (3). The
42 superintendent of schools shall have the general powers and duties
43 to administer the schools within his district as prescribed in
44 Section 37-9-14 et seq., Mississippi Code of 1972.

45 (3) Provided, however, if at any time prior to January 1,
46 2015, a petition signed by not less than twenty percent (20%) or
47 one thousand five hundred (1,500), whichever is less, of the
48 registered, qualified electors of such county, exclusive of the
49 municipal separate school district boundaries, is filed with the
50 county board of education requesting that a referendum be called
51 on the question of changing from the elective method of selecting
52 the county superintendent of education to the appointive method,
53 then the county board of education shall adopt, not later than the
54 next regular meeting, a resolution calling a referendum to be
55 called and held within the county school district boundaries upon
56 the question. The referendum shall be scheduled for not more than
57 six (6) weeks after the date such petition is filed with the
58 board. When a referendum has been called, notice of the
59 referendum shall be published at least five (5) days per week,
60 unless the only newspaper published in the county school district
61 is published less than five (5) days per week, for at least three
62 (3) consecutive weeks, in at least one (1) newspaper published in
63 the county school district. The notice shall be no less than
64 one-fourth (1/4) page in size, and the type used shall be no
65 smaller than eighteen (18) point and surrounded by a
66 one-fourth-inch solid black border. The notice may not be placed
67 in that portion of the newspaper where legal notices and



68 classified advertisements appear. The first publication of the
69 notice shall be made not less than twenty-one (21) days before the
70 date fixed for the referendum, and the last publication shall be
71 made not more than seven (7) days before that date. If no
72 newspaper is published in the county school district, then the
73 notice shall be published in a newspaper having a general
74 circulation in the county school district. The referendum shall
75 be held, as far as is practicable, in the same manner as other
76 referendums and elections are held in the county. At the
77 referendum, all registered, qualified electors of the county
78 school district, exclusive of the municipal separate school
79 district boundaries, may vote. The ballots used at the referendum
80 shall have printed thereon a brief statement of the purpose of the
81 referendum and the words "FOR CHANGING FROM THE ELECTIVE TO THE
82 APPOINTIVE METHOD OF SELECTING THE COUNTY SUPERINTENDENT OF
83 EDUCATION," and "AGAINST CHANGING FROM THE ELECTIVE TO THE
84 APPOINTIVE METHOD OF SELECTING THE COUNTY SUPERINTENDENT OF
85 EDUCATION." The voter shall vote by placing a cross (X) or
86 checkmark (✓) opposite his choice on the proposition. If a
87 majority of the registered, qualified electors of the county
88 school district who vote in the referendum vote in favor of the
89 question, then the change in selection method shall be approved.
90 However, if a majority of the registered, qualified electors who
91 vote in the referendum vote against the question, the change in
92 selection method shall not be approved, and the county
93 superintendent of education of said county shall continue to be an
94 elected office.

95 (4) * * * No person shall be eligible to the office of
96 superintendent of schools unless such person shall hold a valid
97 administrator's license issued by the State Department of
98 Education and shall have had not less than four (4) years of
99 classroom or administrative experience.



100 **SECTION 2.** Section 37-9-25, Mississippi Code of 1972, is
101 amended as follows:

102 37-9-25. The school board shall have the power and
103 authority, in its discretion, to employ the superintendent, unless
104 such superintendent is elected pursuant to referendum under
105 Section 37-9-13(3), for not exceeding four (4) scholastic years
106 and the principals or licensed employees for not exceeding three
107 (3) scholastic years. In such case, contracts shall be entered
108 into with such superintendents, principals and licensed employees
109 for the number of years for which they have been employed. All
110 such contracts with licensed employees shall for the years after
111 the first year thereof be subject to the contingency that the
112 licensed employee may be released if, during the life of the
113 contract, the average daily attendance should decrease from that
114 existing during the previous year and thus necessitate a reduction
115 in the number of licensed employees during any year after the
116 first year of the contract. However, in all such cases the
117 licensed employee must be released before July 1 or at least
118 thirty (30) days prior to the beginning of the school term,
119 whichever date should occur earlier. The salary to be paid for
120 the years after the first year of such contract shall be subject
121 to revision, either upward or downward, in the event of an
122 increase or decrease in the funds available for the payment
123 thereof, but, unless such salary is revised prior to the beginning
124 of a school year, it shall remain for such school year at the
125 amount fixed in such contract. However, where school district
126 funds, other than minimum education program funds, are available
127 during the school year in excess of the amount anticipated at the
128 beginning of the school year the salary to be paid for such year
129 may be increased to the extent that such additional funds are
130 available and nothing herein shall be construed to prohibit same.

131 **SECTION 3.** Section 37-5-61, Mississippi Code of 1972, is
132 amended as follows:



133 [In counties wherein the electors in the county have voted to
134 retain the office of elected county superintendent of education
135 pursuant to referendum as provided in Section 37-9-13(3), this
136 section shall read as follows:]

137 37-5-61. (1) There shall be a county superintendent of
138 education in each county.

139 (2) Said superintendent shall serve as the executive
140 secretary of the county board of education, but shall have no vote
141 in the proceedings before the board and no voice in fixing the
142 policies thereof.

143 (3) In addition, said superintendent shall be the director
144 of all schools in the county outside the municipal separate school
145 districts.

146 (4) Said superintendent shall be elected at the same time
147 and in the same manner as other county officers are elected and
148 shall hold office for a term of four (4) years.

149 [In counties where a referendum provided in Section
150 37-9-13(3) has not been approved, this section shall have no force
151 and effect.]

152 **SECTION 4.** Effective January 1, 2016, Sections 37-5-61,
153 37-5-63, 37-5-65, 37-5-67, 37-5-69, 37-5-71 and 37-5-75,
154 Mississippi Code of 1972, which provide for changing the position
155 of county superintendent of education to an appointed office
156 pursuant to petition and referendum, provide for the
157 reestablishment of the office as an elective office, authorize the
158 appointment of the county superintendent of education in certain
159 counties, provide for the selection and qualifications of elected
160 superintendents in certain counties, provide for the filling of
161 vacancies in the office of elected county superintendent of
162 education, and Section 37-9-12, Mississippi Code of 1972, which
163 provides for a referendum on the question of retaining the
164 elective method of choosing the county superintendent of
165 education, is hereby repealed.



166 **SECTION 5.** The Attorney General of the State of Mississippi
167 shall submit this act, immediately upon approval by the Governor,
168 or upon approval by the Legislature subsequent to a veto, to the
169 Attorney General of the United States or to the United States
170 District Court for the District of Columbia in accordance with the
171 provisions of the Voting Rights Act of 1965, as amended and
172 extended.

173 **SECTION 6.** This act shall take effect and be in force from
174 and after the date it is effectuated under Section 5 of the Voting
175 Rights Act of 1965, as amended and extended.

