

By: Representatives Moore, Turner, Aldridge,  
Formby

To: Education; Apportionment  
and Elections

## HOUSE BILL NO. 940

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 2005 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 first Monday of January 2006 but before the  
39 first Monday of January 2009 shall continue to serve for the  
40 remainder of the unexpired term, at which time the vacancy shall  
41 be filled in the manner provided in Section 37-5-19.

42 (2) On the first Tuesday after the first Monday in November  
43 2008 and every four (4) years thereafter, in any \* \* \* county  
44 electing to utilize the authority contained in Section 37-5-1(2),  
45 an election shall be held in the same manner and at the same time  
46 as the presidential election is held and conducted, for the  
47 purpose of electing the county board of education in that  
48 county. \* \* \* All members of the county board of education shall  
49 take office on the first Monday of January following the date of  
50 their election and shall serve for a term of four (4) years.  
51 However, in order to provide for an orderly transition, the term  
52 of each member of the board serving on the date that House Bill  
53 No. \_\_\_\_\_, 2005 Regular Session, becomes effective that otherwise  
54 would expire after the first Monday in January 2009, shall expire  
55 on the first Monday of January 2009. Each member of the board  
56 whose term expires after the first Monday of January 2006 but  
57 before the first Monday of January 2009 shall continue to serve  
58 for the remainder of the unexpired term, at which time the vacancy  
59 shall be filled in the manner provided in Section 37-5-19.

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

62 37-7-207. (1) All school districts reconstituted or created  
63 under the provisions of Article 3 of this chapter, and which lie  
64 wholly within one (1) county, but not including municipal separate  
65 and countywide districts, shall be governed by a board of five (5)  
66 trustees. The first board of trustees of such districts shall be  
67 appointed by the county board of education, and the original  
68 appointments shall be so made that one (1) trustee shall be  
69 appointed to serve until the first Saturday of March following

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

90 On the first Tuesday after the first Monday in November 2008  
91 and every four (4) years thereafter, in each consolidated school  
92 district \* \* \* an election shall be held in the same manner and at  
93 the same time as the presidential election is held and conducted,  
94 for the purpose of electing the board of trustees of such  
95 district. At the election, the members of the \* \* \* board \* \* \*  
96 shall be elected for a term of four (4) years. However, in order  
97 to provide for an orderly transition, the term of each member of  
98 the board serving on the date that House Bill No. \_\_\_\_\_, 2005  
99 Regular Session, becomes effective that otherwise would expire  
100 after the first Monday in January 2009, shall expire on the first  
101 Monday of January 2009. Each member of the board whose term  
102 expires after the first Monday of January 2006 but before the

103 first Monday of January 2009 shall continue to serve for the  
104 remainder of the unexpired term, at which time the vacancy shall  
105 be filled in the manner provided in this paragraph. All members  
106 of the \* \* \* board of trustees shall take office on the first  
107 Monday of January following the date of their election. All  
108 vacancies which may occur during a term shall be filled by  
109 appointment of the consolidated school district trustees, but the  
110 person so appointed shall serve only until the next general  
111 election following such appointment, at which time a person shall  
112 be elected for the remainder of the unexpired term at the same  
113 time and in the same manner as a trustee is elected for the full  
114 term then expiring. The person so elected to the unexpired term  
115 shall take office immediately. Said appointee shall be selected  
116 from the qualified electors of the district in which the vacancy  
117 occurs.

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

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

165 On the first Tuesday after the first Monday in November 2008  
166 and every four (4) years thereafter, in each line consolidated  
167 school district \* \* \* an election shall be held in the same manner  
168 and at the same time as the presidential election is held and

169 conducted, for the purpose of electing the board of trustees of  
170 such district. At the election, the members of the \* \* \*  
171 board \* \* \* shall be elected for a term of four (4) years.  
172 However, in order to provide for an orderly transition, the term  
173 of each member of the board serving on the date that House Bill  
174 No.\_\_\_\_, 2005 Regular Session, becomes effective that otherwise  
175 would expire after the first Monday in January 2009, shall expire  
176 on the first Monday of January 2009. Each member of the board  
177 whose term expires after the first Monday of January 2006 but  
178 before the first Monday of January 2009 shall continue to serve  
179 for the remainder of the unexpired term, at which time the vacancy  
180 shall be filled in the manner provided in this paragraph. All  
181 members of the \* \* \* board of trustees shall take office on the  
182 first Monday of January following the date of their election. In  
183 all elections, the trustee elected shall be a resident and  
184 qualified elector of the district entitled to the representation  
185 upon the board, and he shall be elected only by the qualified  
186 electors of such district. All vacancies which may occur during a  
187 term of office shall be filled by appointment of the consolidated  
188 line school district trustees, but the person so appointed shall  
189 serve only until the next general election following such  
190 appointment, at which time a person shall be elected for the  
191 remainder of the unexpired term at the same time and in the same  
192 manner as the trustee is elected for the full term then expiring.  
193 The person so elected to the unexpired term shall take office  
194 immediately.

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

197       37-7-713. (1) In all special municipal separate school  
198 districts where the district embraces less than the entire area of  
199 the county and where the majority of the educable children of such  
200 district reside outside the limits of the municipality, \* \* \*  
201 the \* \* \* special municipal separate school district shall be

202 governed by a board of trustees consisting of five (5) members, to  
203 be elected by the qualified electors of such municipal separate  
204 school district \* \* \* in the manner provided by this section.  
205 On the first Tuesday after the first Monday in November 2008, and  
206 every four (4) years thereafter, an election shall be held in each  
207 special municipal separate school district as constituted in this  
208 section, in the same manner and at the same time as the  
209 presidential election is held and conducted, for the purpose of  
210 electing the members of the boards of trustees established under  
211 the provisions of this section. All members of the boards of  
212 trustees as constituted in this section shall take office on the  
213 first Monday of January following the date of their election and  
214 shall serve for a term of four (4) years. The five (5) members of  
215 the board of trustees shall be elected from trustee election  
216 districts by the qualified electors of the district, as provided  
217 in this section. The governing authorities of the municipality  
218 shall apportion the special municipal separate school district  
219 into five (5) special trustee election districts as nearly equal  
220 as possible according to population, incumbency and other factors  
221 pronounced by the courts before the effective date of House Bill  
222 No. \_\_\_\_\_, 2005 Regular Session. The municipal governing  
223 authorities shall place upon their minutes the boundaries  
224 determined for the new five (5) trustee election districts. The  
225 municipal governing authorities shall thereafter publish the same  
226 in a newspaper having general circulation within the school  
227 district for at least three (3) consecutive weeks; and after  
228 having given notice of publication and recording the same upon the  
229 minutes of the municipal governing authorities, the new district  
230 lines shall be effective thereafter. The term of each incumbent  
231 trustee serving on the date that House Bill No. \_\_\_\_\_, 2005 Regular  
232 Session, becomes effective that otherwise would expire after the  
233 first Monday of January 2009, shall expire on the first Monday of  
234 January 2009. Each incumbent trustee whose term expires after the

235 effective date of House Bill No. \_\_\_\_\_, 2005 Regular Session, but  
236 before the first Monday of January 2009 shall continue to serve  
237 for the remainder of the unexpired term, at which time the vacancy  
238 shall be filled in the manner provided by subsection (2) of this  
239 section.

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



268 authorities. The Governor shall commission the person elected.  
269 The election shall be held in the same manner provided for other  
270 municipal office vacancies.

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

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

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

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

301 provisions of the Voting Rights Act of 1965, as amended and  
302 extended.

303       **SECTION 7.** This act shall take effect and be in force from  
304 and after July 1, 2005, or the date it is effectuated under  
305 Section 5 of the Voting Rights Act of 1965, as amended and  
306 extended, whichever is later.