

House Bill 1388

By: Representative Royal of the 164<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend an Act providing for the election of the members of the Board of Education of  
2 Mitchell County, approved March 4, 1970 (Ga. L. 1970, p. 2239), as amended, so as to  
3 reconstitute the board of education; to change the description of the education districts; to  
4 provide for definitions and inclusions; to provide for continuation in office of current  
5 members; to provide for election and terms of office of subsequent members; to provide for  
6 qualifications; to provide for vacancies; to provide for a chairperson; to provide for  
7 submission of this Act for approval under the federal Voting Rights Act of 1965, as  
8 amended; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 An Act providing for the election of the members of the Board of Education of Mitchell  
12 County, approved March 4, 1970 (Ga. L. 1970, p. 2239), as amended, is amended by striking  
13 Sections 1 through 6 and inserting in their place new Sections 1 through 6 to read as follows:

14 style="text-align:center">"SECTION 1.

15 (a) It is the intent of the General Assembly in enacting this Act to incorporate the  
16 provisions of the consent decree entered on May 10, 1984, in *Cochran v. Autry*, United  
17 States District Court for the Middle District of Georgia, Albany Division, Civil Action No.  
18 79-59-ALB.

19 (b) The Board of Education of Mitchell County which existed immediately prior to the  
20 effective date of this Act is continued in existence but on and after the effective date of this  
21 Act shall be constituted as provided in this Act. The Board of Education of Mitchell  
22 County so continued and constituted, sometimes referred to in this Act as the 'board,' shall  
23 continue to have the powers, duties, rights, obligations, and liabilities of that board as  
24 existed immediately prior to the effective date of this Act.

## SECTION 2.

1  
2 (a) Those members of the Board of Education of Mitchell County who are serving as such  
3 immediately prior to the effective date of this Act and any person selected to fill a vacancy  
4 in any such office shall continue to serve as such members until the regular expiration of  
5 their respective terms of office and upon the election and qualification of their respective  
6 successors. On and after the effective date of this Act, the Board of Education of Mitchell  
7 County shall consist of seven members all of whom shall be elected from education  
8 districts described in subsection (b) of this section.

9 (b) For purposes of electing members of the board of education, the Mitchell County  
10 School District is divided into seven education districts. One member of the board shall  
11 be elected from each such district. Education Districts 1 through 6 shall be and correspond  
12 to those six numbered districts described in and attached to and made a part of this Act and  
13 further identified as Plan Name: MITCHSB1R Plan Type: Local User: Tara  
14 Administrator: Mitchell. Education District 7 shall be an at-large district and shall consist  
15 of all of the Mitchell County School District.

16 (c) When used in such attachment, the terms 'Tract' and 'BG' (Block Group) shall mean  
17 and describe the same geographical boundaries as provided in the report of the Bureau of  
18 the Census for the United States decennial census of 2000 for the State of Georgia. The  
19 separate numeric designations in a Tract description which are underneath a 'BG' heading  
20 shall mean and describe individual Blocks within a Block Group as provided in the report  
21 of the Bureau of the Census for the United States decennial census of 2000 for the State of  
22 Georgia. Any part of the Mitchell County School District which is not included in any  
23 such district described in that attachment shall be included within that district contiguous  
24 to such part which contains the least population according to the United States decennial  
25 census of 2000 for the State of Georgia. Any part of the Mitchell County School District  
26 which is described in that attachment as being in a particular district shall nevertheless not  
27 be included within such district if such part is not contiguous to such district. Such  
28 noncontiguous part shall instead be included within that district contiguous to such part  
29 which contains the least population according to the United States decennial census of 2000  
30 for the State of Georgia. Except as otherwise provided in the description of any education  
31 district, whenever the description of such district refers to a named city, it shall mean the  
32 geographical boundaries of that city as shown on the census map for the United States  
33 decennial census of 2000 for the State of Georgia.

## SECTION 3.

(a) No person shall be a member of the board if that person is ineligible for such office pursuant to Code Sections 45-2-1 and 20-2-51 of the O.C.G.A. or any other general law applicable to that office.

(b) In order to be elected as a member of the board from an education district other than the Education District 7 at-large member, a person must be a resident of the education district which such candidate offers to represent and must receive the number of votes cast as required by general law for that office in that district only. Only electors who are residents of that education district may vote for a member of the board for that district. At the time of qualifying for election as a member of the board from an education district, each candidate for such office shall specify the education district for which that person is a candidate. A person elected or appointed as a member of the board from an education district must continue to reside in that district during that person's term of office or that office shall become vacant.

(c) The Education District 7 at-large member of the board may reside anywhere within the Mitchell County School District and, if elected, must receive the number of votes cast for that office as required by general law in the entire school district. Such at-large member must continue to reside within the school district during that person's term of office or that office shall become vacant.

## SECTION 4.

(a) The members of the reconstituted Board of Education of Mitchell County shall be elected as provided in this subsection. The first members from Education Districts 2, 4, and 6 shall be elected at the general election on the Tuesday next following the first Monday in November 2002. Those members of the board elected thereto from Education Districts 2, 4, and 6 in 2002 shall take office the first day of January immediately following that election and shall serve for initial terms of office which expire December 31, 2006, and upon the election and qualification of their respective successors. The first members from Education Districts 1, 3, 5, and 7 shall be elected at the general election on the Tuesday next following the first Monday in November 2004. Those members of the board elected thereto from Education Districts 1, 3, 5, and 7 in 2004 shall take office the first day of January immediately following that election and shall serve for initial terms of office which expire December 31, 2008, and upon the election and qualification of their respective successors. Those and all future successors to members of the board whose terms of office are to expire shall be elected at the time of the state-wide general election immediately preceding the expiration of such terms, shall take office the first day of January immediately following that election, and shall serve for terms of office of four years each.

1 Members of the board shall serve for the terms of office specified therefor in this  
2 subsection and until their respective successors are elected and qualified.

3 (b) Education Districts 1 through 7, as they exist immediately prior to the effective date  
4 of this Act shall continue to be designated as Education Districts 1 through 7, respectively,  
5 but as newly described under this Act, and on and after the effective date of this Act, such  
6 members of the board serving from those former education districts shall be deemed to be  
7 serving from and representing their respective districts as newly described under this Act.

8 (c) All members of the board who are elected thereto shall be nominated and elected in  
9 accordance with Chapter 2 of Title 21 of the O.C.G.A., the 'Georgia Election Code' in  
10 nonpartisan elections as provided in Code Section 21-2-139 of the O.C.G.A.

#### 11 SECTION 5.

12 (a) In the event of a vacancy on the board of education for any reason, other than by  
13 expiration of a term of office, such vacancy shall be filled as follows:

14 (1) If the vacancy occurs more than 90 days prior to the date of the next general election,  
15 it shall be the duty of the election superintendent of Mitchell County, within ten days  
16 after the vacancy occurs, to issue the call for a special election to elect a qualified person  
17 to fill such vacancy for the unexpired term. Such special election shall be held only  
18 within the education district wherein the vacancy occurred; provided, however, that a  
19 successor to fill a vacancy in Education District 7 shall be elected by the voters of the  
20 entire Mitchell County School District. Any person elected to fill such vacancy shall  
21 have the qualifications for membership on the board. A special election to fill a vacancy  
22 shall be called and held in accordance with the applicable provisions of Chapter 2 of Title  
23 21 of the O.C.G.A., the 'Georgia Election Code'; or

24 (2) If the vacancy occurs within 90 days or less of the date of the next general election,  
25 it shall be the duty of the election superintendent of Mitchell County to call and conduct  
26 a special election to be held in conjunction with such general election for the purpose of  
27 electing a qualified person to fill such vacancy for the unexpired term. Such special  
28 election shall be held only within the education district wherein the vacancy occurred;  
29 provided, however, that a successor to fill a vacancy in Education District 7 shall be  
30 elected by the voters of the entire Mitchell County School District. Any person elected  
31 to fill a vacancy shall have the qualifications for membership on the board. The special  
32 election shall be conducted in accordance with the applicable provisions of Chapter 2 of  
33 Title 21 of the O.C.G.A., the 'Georgia Election Code.'

34 (b) Any member so elected as provided in paragraphs (1) and (2) of subsection (a) of this  
35 section shall be a resident of the education district such person is elected to represent;

1 provided, however, that any member elected to fill a vacancy in Education District 7 shall  
2 be a resident of the Mitchell County School District.

3 (c) All persons elected to fill vacancies pursuant to the provisions of this section shall  
4 serve for the remainder of the unexpired term of any such office and until a successor is  
5 elected and qualified.

6 (d) Any vacancy which exists on the board of education on the effective date of this Act  
7 shall be filled by the election of a qualified successor in a special election to be held for  
8 that purpose within the education district in which the vacancy exists. Such special  
9 election shall be called and conducted by the election superintendent of Mitchell County  
10 as soon as is permissible and reasonably practicable following the effective date of this Act  
11 and shall be governed by the provisions of Chapter 2 of Title 21 of the O.C.G.A., the  
12 'Georgia Election Code.'

13 **SECTION 6.**

14 At the first meeting of the board conducted in each odd-numbered year, the members of the  
15 board shall elect one of the members thereof to serve as chairperson for the ensuing two  
16 years."

17 **SECTION 2.**

18 It shall be the duty of the attorney of the Board of Education of Mitchell County to submit  
19 this Act for approval pursuant to Section 5 of the federal Voting Rights Act of 1965, as  
20 amended.

21 **SECTION 3.**

22 All laws and parts of laws in conflict with this Act are repealed.