

By: Senator(s) Thomas

To: Education

SENATE BILL NO. 2356

1 AN ACT TO PROVIDE A PROCEDURE FOR CHANGING THE METHOD OF
 2 SELECTING MEMBERS OF LOCAL SCHOOL BOARDS BY REFERENDUM PURSUANT TO
 3 PETITION OF ELECTORS IN THE COUNTY OR SCHOOL DISTRICT; TO CODIFY
 4 SECTION 37-5-20, MISSISSIPPI CODE OF 1972, TO AUTHORIZE A PETITION
 5 FOR THE CALLING OF AN ELECTION ON THE QUESTION OF ESTABLISHING THE
 6 POSITION OF MEMBER OF THE COUNTY BOARD OF EDUCATION AS AN
 7 APPOINTIVE OFFICE, TO PROVIDE FOR AN ELECTION ON THE QUESTION AND
 8 TO PROVIDE THAT IF A MAJORITY VOTE IN FAVOR OF THE PROPOSITION THE
 9 OFFICE SHALL BECOME APPOINTIVE AT THE EXPIRATION OF THE PRESENT
 10 TERM; TO AUTHORIZE A PETITION FOR THE CALLING OF AN ELECTION ON
 11 THE QUESTION OF ESTABLISHING THE POSITION OF MEMBER OF THE BOARD
 12 OF TRUSTEES OF MUNICIPAL SEPARATE OR SPECIAL MUNICIPAL SCHOOL
 13 DISTRICT AS AN ELECTED OFFICE, TO PROVIDE FOR AN ELECTION ON THE
 14 QUESTION AND TO PROVIDE THAT IF A MAJORITY VOTE IN FAVOR OF THE
 15 PROPOSITION THE OFFICE SHALL BECOME ELECTED AT THE EXPIRATION OF
 16 THE PRESENT TERM; TO AUTHORIZE A PETITION FOR THE CALLING OF AN
 17 ELECTION ON THE QUESTION OF ESTABLISHING THE POSITION OF MEMBER OF
 18 THE BOARD OF TRUSTEES OF CONSOLIDATED SCHOOL DISTRICT AS AN
 19 APPOINTIVE OFFICE, TO PROVIDE FOR AN ELECTION ON THE QUESTION AND
 20 TO PROVIDE THAT IF A MAJORITY VOTE IN FAVOR OF THE PROPOSITION THE
 21 OFFICE SHALL BECOME APPOINTIVE AT THE EXPIRATION OF THE PRESENT
 22 TERM; TO AMEND SECTIONS 37-5-1, 37-7-203, 37-7-703, 37-7-201,
 23 37-7-207 AND 37-7-717, MISSISSIPPI CODE OF 1972, IN CONFORMITY
 24 THERETO; AND FOR RELATED PURPOSES.

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

26 **SECTION 1.** The following provision shall be codified as
 27 Section 37-5-20, Mississippi Code of 1972:

28 37-5-20. (1) The office of member of the county board of
 29 education may be made appointive in any county in the manner
 30 herein provided. Upon the filing of a petition signed by not less
 31 than twenty percent (20%) of the qualified electors of such county
 32 residing outside the limits of any municipal separate school
 33 district, it shall be the duty of the board of supervisors of such
 34 county, within sixty (60) days after the filing of such petition,
 35 to call a special election at which there shall be submitted to
 36 the qualified electors of such county residing outside the limits
 37 of any municipal separate school district the question of whether
 38 the office of member of the county board of education of said

39 county shall continue to be elective or shall be filled by
40 appointment by the board of supervisors of such county in the
41 manner provided in Section 37-7-717(d), Mississippi Code of 1972.

42 The order calling such special election shall designate the
43 date upon which same shall be held and a notice of such election,
44 signed by the clerk of the board of supervisors, shall be
45 published once a week for at least three (3) consecutive weeks in
46 at least one (1) newspaper published in such county. The first
47 publication of such notice shall be made not less than twenty-one
48 (21) days prior to the date fixed for such election and the last
49 publication shall be made not more than seven (7) days prior to
50 such date. If no newspaper is published in such county then such
51 notice shall be given by publication of same for the required time
52 in some newspaper having a general circulation in such county and
53 in addition by posting a copy of such notice for at least
54 twenty-one (21) days next preceding such election at three (3)
55 public places in such county, one (1) of which shall be at the
56 door of the county courthouse in each judicial district.

57 Said election shall be held, as far as is practicable, in the
58 same manner as other elections are held in such county and all
59 qualified electors of the county residing outside the limits of
60 any municipal separate school district in the county may vote
61 therein. If a majority of such qualified electors who vote in
62 such election shall vote in favor of the appointment of the county
63 board of education by the county board of supervisors then, at the
64 expiration of the next term of office of any member of the county
65 board of education then in office, the member of said county board
66 of education shall not be elected but shall thereafter be
67 appointed by the board of supervisors from the appropriate
68 district in the manner provided in Section 37-7-717(d) for a term
69 of four (4) years, otherwise, said office shall remain elective.
70 Such appointments shall be made for other members of the county

71 board of education at the time their respective terms of office
72 expire in the same manner.

73 No special election shall be held in any county under the
74 provisions of this section more often than once in every four (4)
75 years, and no change from the elective to the appointive method of
76 the selection of the county board of education shall become
77 effective except at the expiration of the term of the member of
78 the term of the county board of education in office at the time
79 such election is held.

80 Where the office of county board of education has been made
81 appointive under the provisions of this section, the same may
82 thereafter be made elective in such county by a petition filed and
83 election held in the same manner provided in said section, all of
84 the provisions of which shall be applicable to such proceedings.

85 (2) The office of member of the board of trustees of a
86 municipal or special municipal school district may be made an
87 elected office in any county in the manner herein provided. Upon
88 the filing of a petition signed by not less than twenty percent
89 (20%) of the qualified electors of such municipal or special
90 municipal separate school district, it shall be the duty of the
91 municipal governing authority of the municipality embraced by such
92 school district, within sixty (60) days after the filing of such
93 petition, to call a special election at which there shall be
94 submitted to the qualified electors of such school district the
95 question of whether the office of member of the board of trustees
96 of the municipal or special municipal separate school district
97 shall continue to be appointed or shall be elected in the manner
98 provided in Section 37-7-203(2), Mississippi Code of 1972.

99 The order calling such special election shall designate the
100 date upon which same shall be held and a notice of such election,
101 signed by the clerk of the municipal governing authority, shall be
102 published once a week for at least (3) three consecutive weeks in
103 at least one (1) newspaper published in such municipality. The

104 first publication of such notice shall be made not more than seven
105 (7) days prior to such date. If no newspaper is published in such
106 municipality, then such notice shall be given by publication of
107 same for the required time in some newspaper having a general
108 circulation in such municipality and in addition by posting a copy
109 of such notice for at least twenty-one (21) days next preceding
110 such election at three (3) public places in such municipality, one
111 (1) of which shall be at the door of the county courthouse.

112 Said election shall be held, as far as is practicable, in the
113 same manner as other elections are held in such municipality and
114 all qualified electors of the municipal or special municipal
115 separate school district may vote therein. If a majority of such
116 qualified electors who vote in such election shall vote in favor
117 of the election of the board of trustees then, at the next general
118 municipal election the members shall be elected from special
119 election districts as provided in Section 37-7-203(2), otherwise,
120 said office shall remain appointive.

121 No special election shall be held in any municipality under
122 the provisions of this section more often than once in every four
123 (4) years. Where the office of board of trustees of a municipal
124 or special municipal separate school district has been made
125 elected under the provisions of this section, the same may
126 thereafter be made appointive in such municipal separate or
127 special municipal school district by a petition filed and election
128 held in the same manner provided in said section, all of the
129 provisions of which shall be applicable to such proceedings.

130 (3) The office of member of the consolidated school district
131 board of trustees may be made appointive in any county in the
132 manner herein provided. Upon the filing of a petition signed by
133 not less than twenty percent (20%) of the qualified electors of
134 such county residing in a consolidated school district, it shall
135 be the duty of the board of supervisors of such county, within
136 sixty (60) days after the filing of such petition, to call a

137 special election at which there shall be submitted to the
138 qualified electors of such county residing in the consolidated
139 school district the question of whether the office of member of
140 the board of trustees of said consolidated school district shall
141 continue to be elective or shall be filled by appointment by the
142 board of supervisors of such county in the manner provided in
143 Section 37-7-717(d), Mississippi Code of 1972.

144 The order calling such special election shall designate the
145 date upon which same shall be held and a notice of such election,
146 signed by the clerk of the board of supervisors, shall be
147 published once a week for at least three (3) consecutive weeks in
148 at least one (1) newspaper published in such county. The first
149 publication of such notice shall be made not less than twenty-one
150 (21) days prior to the date fixed for such election and the last
151 publication shall be made not more than seven (7) days prior to
152 such date. If no newspaper is published in such school district
153 then such notice shall be given by publication of same for the
154 required time in some newspaper having a general circulation in
155 such county and in addition by posting a copy of such notice for
156 at least twenty-one (21) days next preceding such election at
157 three (3) public places in such school district, one (1) of which
158 shall be at the door of the county courthouse.

159 Said election shall be held, as far as is practicable, in the
160 same manner as other elections are held in such county and all
161 qualified electors of the consolidated school district may vote
162 therein. If a majority of such qualified electors who vote in
163 such election shall vote in favor of the appointment of the board
164 of trustees by the county board of supervisors then, at the
165 expiration of the next term of office of any member of said
166 consolidated school district board of trustees then in office, the
167 member of said board shall not be elected but shall thereafter be
168 appointed by the board of supervisors from the appropriate
169 district in the manner provided in Section 37-7-717(d) for a term

170 of four (4) years, otherwise, said office shall remain elective.
171 Such appointments shall be made for other members of the
172 consolidated school district board of trustees at the time their
173 respective terms of office expire in the same manner.

174 No special election shall be held in any county under the
175 provisions of this section more often than once in every four (4)
176 years, and no change from the elective to the appointive method of
177 the selection of the consolidated school district board of
178 trustees shall become effective except at the expiration of the
179 term of the member of the board of trustees in office at the time
180 such election is held.

181 Where the office of consolidated school district board of
182 trustees has been made appointive under the provisions of this
183 section, the same may thereafter be made elective in such district
184 by a petition filed and election held in the same manner provided
185 in said section, all of the provisions of which shall be
186 applicable to such proceedings.

187 **SECTION 2.** Section 37-5-1, Mississippi Code of 1972, is
188 amended as follows:

189 37-5-1. (1) There is hereby established a county board of
190 education in each county of the State of Mississippi. Said county
191 board of education shall consist of five (5) members, one (1) of
192 which, subject to the further provisions of this chapter and
193 except as is otherwise provided in Section 37-5-1(2) and except
194 where the electors have chosen the appointive method of selecting
195 the county board of education as provided in Section 37-5-20(1),
196 shall be elected by the qualified electors of each board of
197 education district of the county. Except as is otherwise provided
198 in Section 37-5-3, each member so elected shall be a resident and
199 qualified elector of the district from which he is elected.

200 (2) The county board of education shall apportion the county
201 school district into five (5) single member board of education
202 districts. The county board of education shall place upon its

203 minutes the boundaries determined for the new five (5) board of
204 education districts. The board of education of said county shall
205 thereafter publish the same in some newspaper of general
206 circulation within said county for at least three (3) consecutive
207 weeks and after having given notice of publication and recording
208 the same upon the minutes of the board of education of said
209 county, said new district lines will thereafter be effective. The
210 board of education of said county shall reapportion the board of
211 education districts in accordance with the procedure described
212 herein for the original apportionment of districts as soon as
213 practicable after the results of the 2000 decennial census are
214 published and as soon as practicable after every decennial census
215 thereafter.

216 (3) In counties where the office of "administrative
217 superintendent" as defined in Section 37-6-3, Mississippi Code of
218 1972, has been abolished, there shall be no county board of
219 education.

220 **SECTION 3.** Section 37-7-203, Mississippi Code of 1972, is
221 amended as follows:

222 37-7-203. (1) The boards of trustees of all municipal
223 separate school districts created under the provisions of Article
224 1 of this chapter, either with or without added territory, shall
225 consist of five (5) members, each to be chosen for a term of five
226 (5) years, but so chosen that the term of office of one (1) member
227 shall expire each year. In the event the added territory of a
228 municipal separate school district furnishes fifteen percent (15%)
229 or more of the pupils enrolled in the schools of such district,
230 then at least one (1) member of the board of trustees of such
231 school district shall be a resident of the added territory outside
232 the corporate limits. In the event the added territory of a
233 municipal separate school district furnishes thirty percent (30%)
234 or more of the pupils enrolled in the schools of such district,
235 then not more than two (2) members of the board of trustees of

236 such school district shall be residents of the added territory
237 outside the corporate limits. In the event the added territory of
238 a municipal separate school district in a county in which
239 Mississippi Highways 8 and 15 intersect furnishes thirty percent
240 (30%) or more of the pupils enrolled in the schools of such
241 district, then the five (5) members of the board of trustees of
242 such school district shall be elected at large from such school
243 district for a term of five (5) years each except that the two (2)
244 elected trustees presently serving on such board shall continue to
245 serve for their respective terms of office. The three (3)
246 appointed trustees presently serving on such board shall continue
247 to serve until their successors are elected in March of 1975 in
248 the manner provided for in Section 37-7-215. At such election,
249 one (1) trustee shall be elected for a term of two (2) years, one
250 (1) for a term of three (3) years and one (1) for a term of five
251 (5) years. Subsequent terms for each successor trustee shall be
252 for five (5) years. In the event one (1) of two (2) municipal
253 separate school districts located in any county with two (2)
254 judicial districts, District 1 being comprised of Supervisors
255 Districts 1, 2, 4 and 5, and District 2 being comprised of
256 Supervisors District 3, with added territory embraces three (3)
257 full supervisors districts of a county, one (1) trustee shall be
258 elected from each of the three (3) supervisors districts outside
259 the corporate limits of the municipality. In the further event
260 that the territory of a municipal separate school district located
261 in any county with two (2) judicial districts, District 1 being
262 comprised of Supervisors Districts 1, 2, 4 and 5, and District 2
263 being comprised of Supervisors District 3, with added territory
264 embraces four (4) full supervisors districts in the county, and in
265 any county in which a municipal separate school district embraces
266 the entire county in which Highways 14 and 15 intersect, one (1)
267 trustee shall be elected from each supervisors district.

268 Except as otherwise provided herein, the trustees of such a
269 municipal separate school district shall be elected by a majority
270 of the governing authorities of the municipality at the first
271 meeting of the governing authorities held in the month of February
272 of each year, and the term of office of the member so elected
273 shall commence on the first Saturday of March following. In the
274 case of a member of said board of trustees who is required to come
275 from the added territory outside the corporate limits as is above
276 provided, such member of the board of trustees shall be elected by
277 the qualified electors of the school district residing in such
278 added territory outside the corporate limits at the same time and
279 in the same manner as is otherwise provided in this article for
280 the election of trustees of school districts other than municipal
281 separate school districts.

282 In the event that a portion of a county school district is
283 reconstituted, in the manner provided by law, into a municipal
284 separate school district with added territory and in the event
285 that the trustees to be elected from the added territory are
286 requested to be elected from separate election districts within
287 the added territory, instead of elected at large, by the Attorney
288 General of the United States as a result of and pursuant to
289 preclearance under Section 5 of the Voting Rights Act of 1965 as
290 amended and extended, and in the event the added territory of a
291 municipal separate school district of a municipality furnishes
292 thirty percent (30%) or more of the pupils enrolled in the schools
293 of such district, then two (2) members of the board of trustees
294 shall be residents of the added territory outside the corporate
295 limits of such municipality and shall be elected from special
296 trustee election districts by the qualified electors thereof as
297 herein provided. The board of trustees of the school district
298 shall apportion the added territory into two (2) special trustee
299 election districts as nearly as possible according to population
300 and other factors heretofore pronounced by the courts. The board

301 of trustees of the school district shall thereafter publish the
302 same in a newspaper of general circulation within said school
303 district for at least two (2) consecutive weeks; and after having
304 given notice of publication and recording the same upon the
305 minutes of the board of trustees of the school district, said new
306 district lines shall thereafter be effective. Any person elected
307 from the new trustee election districts constituted herein shall
308 be elected in the manner provided for in Section 37-7-215 for a
309 term of five (5) years. Any vacancy in the office of a trustee
310 elected from such trustee election district, whether occasioned by
311 redistricting or by other cause, shall be filled by appointment of
312 the governing authorities of the municipality, provided that the
313 person so appointed shall serve only until the first Saturday of
314 March following his appointment, at which time a person shall be
315 elected for the remainder of the unexpired term in the manner
316 provided in Section 37-7-215.

317 In any county organizing a countywide municipal separate
318 school district after January 1, 1965, the trustees thereof to be
319 elected from outside the municipality, such trustees shall be
320 elected by the board of supervisors of such county, and the
321 superintendent of such school district shall have authority to pay
322 out and distribute the funds of said district. In the event a
323 municipal separate school district should occupy territory in a
324 county other than that in which the municipality is located and
325 fifteen percent (15%) or more of the pupils enrolled in the
326 schools of such district shall come from the territory of the
327 district in the county other than that in which the municipality
328 is located, the territory of such county in which the municipality
329 is not located shall be entitled to one (1) member on the board of
330 trustees of such school district. Said trustee shall be a
331 resident of the territory of that part of the district lying in
332 the county in which the municipality is not located and shall be
333 elected by the qualified electors of the territory of such county

334 at the same time and in the same manner as is provided for the
335 election of trustees of school districts other than municipal
336 separate school districts having territory in two (2) or more
337 counties.

338 All vacancies shall be filled for the unexpired terms by
339 appointment of the governing authorities of the municipality;
340 except that in the case of the trustees coming from the added
341 territory outside the corporate limits, the person so appointed
342 shall serve only until the first Saturday of March following his
343 appointment, at which time a person shall be elected for the
344 remainder of the unexpired term in the manner otherwise provided
345 herein.

346 No person who is a member of such governing body, or who is
347 an employee of the municipality, or who is a member of the county
348 board of education, or who is a trustee of any public, private or
349 sectarian school or college located in the county, inclusive of
350 the municipal separate school district, or who is a teacher in or
351 a trustee of said school district, shall be eligible for
352 appointment to said board of trustees.

353 (2) In counties of less than fifteen thousand (15,000)
354 people having a municipal separate school district with added
355 territory which embraces all the territory of a county, one (1) or
356 more trustees of such district shall be nominated from each
357 supervisors district upon petition of fifty (50) qualified
358 electors of said district, or twenty percent (20%) of the
359 qualified electors of such district, whichever number shall be
360 smaller, and shall be elected by a plurality of the vote of the
361 qualified electors of said county. One (1) trustee so elected
362 shall reside in each supervisors district of the county. In such
363 counties embraced entirely by a municipal separate school district
364 there shall be no county board of education after the formation of
365 such district and the county superintendent of education shall act
366 as superintendent of schools of said district and shall be

367 appointed by the board of trustees of said district, and the
368 provisions of subsection (1) of this section and the first
369 paragraph of Section 37-7-211 shall not apply to such districts.

370 [In any municipal separate school district in which the
371 electors have voted to adopt the elected method of selecting
372 school board members under Section 37-5-20(2), this section shall
373 read as follows:]

374 37-7-203. (1) The school boards * * * of all municipal
375 separate school districts * * * shall consist of five (5) members.
376 Beginning in 2009, or in any year of a general municipal election
377 following the adoption of the elective method of selecting the
378 board of trustees under Section 37-5-20(2), each member shall be
379 elected from a special school board member district, as provided
380 for under subsection (2) of this section, by the qualified
381 electors of that district.

382 (2) The municipal governing authority shall apportion the
383 municipal separate school district, including any added territory,
384 into five (5) single school board member districts. The school
385 board member districts shall be as nearly equal as possible
386 according to population. The municipal governing authority shall
387 submit the school board member district lines to the Attorney
388 General of the United States for preclearance or to the United
389 States District Court for the District of Columbia for a
390 declaratory judgment in accordance with the provisions of the
391 Voting Rights Act of 1965, as amended and extended. If the school
392 board member district lines are precleared by the United States
393 Department of Justice or approved by the United States District
394 Court, the municipal governing authority and the school board of
395 the municipal separate school district shall place upon their
396 minutes the boundaries established for the five (5) school board
397 member districts, and the school board shall publish the
398 boundaries in a newspaper of general circulation within the school
399 district for at least three (3) consecutive weeks. After having

400 given notice of publication and recording the publication upon the
401 minutes of the school board, the school board member district
402 lines shall be effective. As soon as practicable after the
403 results of the 2010 decennial census and every decennial census
404 thereafter are published, the municipal governing authority shall
405 reapportion the school board member districts in the manner
406 prescribed in this subsection for the creation of the original
407 districts.

408 (3) On the first Tuesday after the first Monday in June
409 2009, and every four (4) years thereafter, an election shall be
410 held in every municipal separate school district, in the same
411 manner and at the same time as the general municipal elections are
412 held, for the purpose of electing the members of the school board
413 of the municipal separate school district. Provided, however,
414 that in any special charter municipality where the general
415 municipal election date is different from June 2009, the members
416 of the school board of the municipal separate school district
417 shall be elected as provided in this section in the same manner
418 and at the same time as the general municipal elections are held
419 in such special charter municipality. Candidates for the school
420 board of the municipal separate school district shall file with
421 the municipal election commissioners, not more than ninety (90)
422 days and not less than sixty (60) days before the date of the
423 general election, a petition of nomination signed by at least
424 fifty (50) or twenty percent (20%) of the qualified electors of
425 the school board member district, whichever is less. The name of
426 each qualified candidate shall be placed on the ballot. The
427 candidate in each school board member district who receives a
428 majority of the votes cast by the qualified electors in that
429 district shall be elected. However, if no candidate receives a
430 majority of the votes, a runoff election shall be held two (2)
431 weeks after the election. The names of the candidate receiving
432 the highest number of votes and the candidate, or candidates in

433 the event of a tie, receiving the next highest vote for the office
434 shall be placed on the ballot in the runoff election. The person
435 receiving the highest number of votes cast by the qualified
436 electors in the runoff election shall be elected. All persons
437 elected to serve on the school board of the municipal separate
438 school district shall take office on the first Monday of July next
439 following the date of their election and shall serve for a term of
440 four (4) years.

441 (4) Notwithstanding any other provision of law to the
442 contrary, in each municipal separate school district, the terms of
443 all school board members, whether appointed or elected, existing
444 on the first Tuesday after the first Monday in June 2009 shall
445 expire when their duly elected successors take office on the first
446 Monday of July 2009, or on the first Monday of July following the
447 general municipal election date in a special charter municipality.

448 (5) Whenever there is a vacancy in the membership of the
449 school board of the municipal separate school district, the
450 vacancy shall be filled, depending upon the length of the
451 unexpired term of the vacated office, in the manner provided under
452 this subsection.

453 (a) If the unexpired term of the vacated office is six
454 (6) months or less, the remaining members of the school board
455 shall appoint, within sixty (60) days after the vacancy occurs, a
456 person to serve the unexpired portion of the term. The appointee
457 shall be selected from the qualified electors of the school board
458 member district in which the vacancy occurs. The chairman of the
459 school board shall certify to the Secretary of State the fact of
460 the appointment, and the Governor shall commission the person
461 appointed.

462 (b) If the unexpired term of the vacated office is
463 greater than six (6) months, an election shall be held to fill the
464 vacancy. The school board shall certify in writing the fact of
465 the vacancy to the governing authority of the municipality. At

466 the next regular meeting of the governing authority after its
467 receipt of certification of the vacancy from the school board, the
468 governing authority shall make and enter on its minutes an order
469 for an election to be held in the school board member district in
470 which the vacancy exists and shall fix the date upon which the
471 election shall be held, which date shall not be less than thirty
472 (30) days nor more than forty-five (45) days after the date upon
473 which the order is adopted.

474 The municipal clerk shall publish notice of the election in a
475 newspaper of general circulation within the municipality once each
476 week for three (3) successive weeks preceding the date of the
477 election. The first notice must be published at least thirty (30)
478 days before the date of the election. Notice also shall be given
479 by the school board by posting a copy of the notice at three (3)
480 public places in the school board member district in which the
481 vacancy exists and at the administrative offices of the school
482 board not less than twenty-one (21) days before the date of the
483 election.

484 Candidates for the vacated office shall file with the
485 municipal clerk, not less than ten (10) days before the date of
486 the election, a petition of nomination signed by at least fifty
487 (50) or twenty percent (20%) of the qualified electors of the
488 school board member district, whichever is less. The election
489 shall be held, as far as practicable, in the same manner as
490 general elections are conducted under subsection (3) of this
491 section. The candidate who receives a majority of the votes cast
492 by the qualified electors in the school board member district
493 shall be elected. However, if no candidate receives a majority of
494 the votes, a runoff election shall be held two (2) weeks after the
495 election. The names of the candidate receiving the highest number
496 of votes and the candidate, or candidates in the event of a tie,
497 receiving the next highest vote for the office shall be placed on
498 the ballot in the runoff election. The person receiving the

499 highest number of votes cast by the qualified electors in the
500 runoff election shall be elected. The clerk of the municipal
501 election commission shall give a certificate of election to the
502 person elected and shall return to the Secretary of State a copy
503 of the order of holding the election and its results, certified by
504 the municipal clerk. The Governor shall commission the person
505 elected to serve the remainder of the unexpired term.

506 However, if nine (9) days before the date of the election
507 only one (1) person has qualified as a candidate, the governing
508 authority shall dispense with the election, and the remaining
509 members of the school board shall appoint that candidate to fill
510 the unexpired term. If no person has qualified at least nine (9)
511 days before the election, the governing authority shall dispense
512 with the election, and the remaining members of the school board
513 shall appoint a person, selected from the qualified electors of
514 the school board member district in which the vacancy exists, to
515 fill the unexpired term. The chairman of the school board shall
516 certify to the Secretary of State the fact of the appointment, and
517 the Governor shall commission the person appointed.

518 **SECTION 4.** Section 37-7-703, Mississippi Code of 1972, is
519 amended as follows:

520 37-7-703. In all such special municipal separate school
521 districts which embrace the entire county in which, according to
522 the latest available federal census, a majority of the inhabitants
523 of the county reside within the corporate limits of the
524 municipality, the board of trustees of such special municipal
525 separate school district shall be chosen and selected in the
526 manner provided by subsection (1) of Section 37-7-203, and all of
527 the provisions thereof shall be fully applicable in all respects
528 to the selection and constitution of such board of trustees.

529 [In any special municipal school district in which the
530 electors have voted to adopt the elected method of selecting

531 school board members pursuant to Section 37-5-20(2), this section
532 shall read as follows:]

533 37-7-703. (1) In all * * * special municipal separate
534 school districts, beginning in 2009, or in any year of a general
535 municipal election subsequent to the adoption of the elective
536 method of selecting the board of trustees under Section
537 37-5-20(2), * * * the school board * * * of such special municipal
538 separate school district shall be elected in the manner provided
539 in this section * * *.

540 (2) Each member of the school board of the special municipal
541 separate school district shall be elected from a special school
542 board member district by the qualified electors of that district.
543 The municipal governing authority shall apportion the special
544 municipal separate school district, including any added territory,
545 into five (5) single school board member districts. The school
546 board member districts shall be as nearly equal as possible
547 according to population. The municipal governing authority shall
548 submit the school board member district lines to the Attorney
549 General of the United States for preclearance or to the United
550 States District Court for the District of Columbia for a
551 declaratory judgment in accordance with the provisions of the
552 Voting Rights Act of 1965, as amended and extended. If the school
553 board member district lines are precleared by the United States
554 Department of Justice or approved by the United States District
555 Court, the municipal governing authority and the school board of
556 the special municipal separate school district shall place upon
557 their minutes the boundaries established for the five (5) school
558 board member districts, and the school board shall publish the
559 boundaries in a newspaper of general circulation within the school
560 district for at least three (3) consecutive weeks. After having
561 given notice of publication and recording the publication upon the
562 minutes of the school board, the school board member district
563 lines shall be effective. As soon as practicable after the

564 results of the 2010 decennial census and every decennial census
565 thereafter are published, the municipal governing authority shall
566 reapportion the school board member districts in the manner
567 prescribed in this subsection for the creation of the original
568 districts.

569 (3) On the first Tuesday after the first Monday in June
570 2009, and every four (4) years thereafter, an election shall be
571 held in every special municipal separate school district, in the
572 same manner and at the same time as the general municipal
573 elections are held, for the purpose of electing the members of the
574 school board of the special municipal separate school district.
575 Provided, however, that in any special charter municipality where
576 the general municipal election date is different from June 2009,
577 the members of the school board of the municipal separate school
578 district shall be elected as provided in this section in the same
579 manner and at the same time as the general municipal elections are
580 held in such special charter municipality. Candidates for the
581 school board of the special municipal separate school district
582 shall file with the municipal election commissioners, not more
583 than ninety (90) days and not less than sixty (60) days before the
584 date of the general election, a petition of nomination signed by
585 at least fifty (50) or twenty percent (20%) of the qualified
586 electors of the school board member district, whichever is less.
587 The name of each qualified candidate shall be placed on the
588 ballot. The candidate in each school board member district who
589 receives a majority of the votes cast by the qualified electors in
590 that district shall be elected. However, if no candidate receives
591 a majority of the votes, a runoff election shall be held two (2)
592 weeks after the election. The names of the candidate receiving
593 the highest number of votes and the candidate, or candidates in
594 the event of a tie, receiving the next highest vote for the office
595 shall be placed on the ballot in the runoff election. The person
596 receiving the highest number of votes cast by the qualified

597 electors in the runoff election shall be elected. All persons
598 elected to serve on the school board of the special municipal
599 separate school district shall take office on the first Monday of
600 July next following the date of their election and shall serve for
601 a term of four (4) years.

602 (4) Notwithstanding any other provision of law to the
603 contrary, in each special municipal separate school district, the
604 terms of all school board members, whether appointed or elected,
605 existing on the first Tuesday after the first Monday in June 2009
606 shall expire when their duly elected successors take office on the
607 first Monday of July 2009 or on the first Monday of July following
608 the general municipal election date if such municipality is a
609 special charter municipality.

610 (5) Whenever there is a vacancy in the membership of the
611 school board of the special municipal separate school district,
612 the vacancy shall be filled, depending upon the length of the
613 unexpired term of the vacated office, in the manner provided under
614 this subsection.

615 (a) If the unexpired term of the vacated office is six
616 (6) months or less, the remaining members of the school board
617 shall appoint, within sixty (60) days after the vacancy occurs, a
618 person to serve the unexpired portion of the term. The appointee
619 shall be selected from the qualified electors of the school board
620 member district in which the vacancy occurs. The chairman of the
621 school board shall certify to the Secretary of State the fact of
622 the appointment, and the Governor shall commission the person
623 appointed.

624 (b) If the unexpired term of the vacated office is
625 greater than six (6) months, an election shall be held to fill the
626 vacancy. The school board shall certify in writing the fact of
627 the vacancy to the governing authority of the municipality. At
628 the next regular meeting of the governing authority after its
629 receipt of certification of the vacancy from the school board, the

630 governing authority shall make and enter on its minutes an order
631 for an election to be held in the school board member district in
632 which the vacancy exists and shall fix the date upon which the
633 election shall be held, which date shall not be less than thirty
634 (30) days nor more than forty-five (45) days after the date upon
635 which the order is adopted.

636 The municipal clerk shall publish notice of the election in a
637 newspaper of general circulation within the municipality once each
638 week for three (3) successive weeks preceding the date of the
639 election. The first notice must be published at least thirty (30)
640 days before the date of the election. Notice also shall be given
641 by the school board by posting a copy of the notice at three (3)
642 public places in the school board member district in which the
643 vacancy exists and at the administrative offices of the school
644 board not less than twenty-one (21) days before the date of the
645 election.

646 Candidates for the vacated office shall file with the
647 municipal clerk, not less than ten (10) days before the date of
648 the election, a petition of nomination signed by at least fifty
649 (50) or twenty percent (20%) of the qualified electors of the
650 school board member district, whichever is less. The election
651 shall be held, as far as practicable, in the same manner as
652 general elections are conducted under subsection (3) of this
653 section. The candidate who receives a majority of the votes cast
654 by the qualified electors in the school board member district
655 shall be elected. However, if no candidate receives a majority of
656 the votes, a runoff election shall be held two (2) weeks after the
657 election. The names of the candidate receiving the highest number
658 of votes and the candidate, or candidates in the event of a tie,
659 receiving the next highest vote for the office shall be placed on
660 the ballot in the runoff election. The person receiving the
661 highest number of votes cast by the qualified electors in the
662 runoff election shall be elected. The clerk of the municipal

663 election commission shall give a certificate of election to the
664 person elected and shall return to the Secretary of State a copy
665 of the order of holding the election and its results, certified by
666 the municipal clerk. The Governor shall commission the person
667 elected to serve the remainder of the unexpired term.

668 However, if nine (9) days before the date of the election
669 only one (1) person has qualified as a candidate, the governing
670 authority shall dispense with the election, and the remaining
671 members of the school board shall appoint that candidate to fill
672 the unexpired term. If no person has qualified at least nine (9)
673 days before the election, the governing authority shall dispense
674 with the election, and the remaining members of the school board
675 shall appoint a person, selected from the qualified electors of
676 the school board member district in which the vacancy exists, to
677 fill the unexpired term. The chairman of the school board shall
678 certify to the Secretary of State the fact of the appointment, and
679 the Governor shall commission the person appointed.

680 **SECTION 5.** Section 37-7-201, Mississippi Code of 1972, is
681 amended as follows:

682 37-7-201. In order for a person to be eligible to hold the
683 office of school board member of any school district, such person
684 must be a bona fide resident and a qualified elector of * * * the
685 school board member district entitled to such representation on
686 the school board.

687 **SECTION 6.** Section 37-7-207, Mississippi Code of 1972, is
688 amended as follows:

689 37-7-207. (1) All school districts reconstituted or created
690 under the provisions of Article 1 of this chapter, and which lie
691 wholly within one (1) county, but not including municipal separate
692 and countywide districts, shall be governed by a board of five (5)
693 trustees. The first board of trustees of such districts shall be
694 appointed by the county board of education, and the original
695 appointments shall be so made that one (1) trustee shall be

696 appointed to serve until the first Saturday of March following
697 such appointments, one (1) for one (1) year longer, one (1) for
698 two (2) years longer, one (1) for three (3) years longer, and one
699 (1) for four (4) years longer. After such original appointments,
700 the trustees of such school districts shall be elected by the
701 qualified electors of such school districts in the manner provided
702 for in Sections 37-7-223 through 37-7-229, with each trustee to be
703 elected for a term of five (5) years. The five (5) members of the
704 board of trustees of such consolidated school district shall be
705 elected from special trustee election districts by the qualified
706 electors thereof, as herein provided. The board of trustees of
707 any such consolidated school district shall apportion the
708 consolidated school district into five (5) special trustee
709 election districts. The board of trustees of such school district
710 shall place upon its minutes the boundaries determined for the new
711 five (5) trustee election districts. The board of trustees shall
712 thereafter publish the same in a newspaper of general circulation
713 within said school district for at least three (3) consecutive
714 weeks; and after having given notice of publication and recording
715 the same upon the minutes of the board of trustees, said new
716 district lines shall thereafter be effective.

717 On the first Tuesday after the first Monday in November, in
718 any year in which any consolidated school district shall elect to
719 utilize the authority to create single member election districts,
720 an election shall be held in each such district in this state for
721 the purpose of electing the board of trustees of such district.
722 At said election the member of the said board from District One
723 shall be elected for a term of one (1) year, the member from
724 District Two shall be elected for a term of two (2) years, the
725 member from District Three shall be elected for a term of three
726 (3) years, the member from District Four shall be elected for a
727 term of four (4) years, and the member from District Five shall be
728 elected for a term of five (5) years. Thereafter, members shall

729 be elected at general elections as vacancies occur for terms of
730 five (5) years each. Trustees elected from single member election
731 districts as provided above shall otherwise be elected as provided
732 for in Sections 37-7-223 through 37-7-229. All members of the
733 said board of trustees shall take office on the first Monday of
734 January following the date of their election. All vacancies which
735 may occur during a term shall be filled by appointment of the
736 consolidated school district trustees, but the person so appointed
737 shall serve only until the next general election following such
738 appointment, at which time a person shall be elected for the
739 remainder of the unexpired term at the same time and in the same
740 manner as a trustee is elected for the full term then expiring.
741 The person so elected to the unexpired term shall take office
742 immediately. Said appointee shall be selected from the qualified
743 electors of the district in which the vacancy occurs.

744 (2) All school districts reconstituted and created under the
745 provisions of Article 1 of this chapter, which embrace territory
746 in two (2) or more counties, but not including municipal separate
747 school districts, shall be governed by a board of five (5)
748 trustees. In making the original appointments, the several county
749 boards of education shall appoint the trustee or trustees to which
750 the territory in such county is entitled, and, by agreement
751 between the county boards concerned, one (1) person shall be
752 appointed to serve until the first Saturday of March following,
753 one (1) for one (1) year longer, one (1) for two (2) years longer,
754 one (1) for three (3) years longer and one (1) for four (4) years
755 longer. Thereafter, such trustees shall be elected as is provided
756 for in Sections 37-7-223 through 37-7-229, for a term of five (5)
757 years. The five (5) members of the board of trustees of such line
758 consolidated school district shall be elected from special trustee
759 election districts by the qualified electors thereof, as herein
760 provided. The existing board of trustees of such line
761 consolidated school district shall apportion the line consolidated

762 school district into five (5) special trustee election districts.
763 The board of trustees shall place upon its minutes the boundaries
764 determined for the new five (5) trustee election districts. The
765 board of trustees shall thereafter publish the same in a newspaper
766 of general circulation within said school district for at least
767 three (3) consecutive weeks; and after having given notice of
768 publication and recording the same upon the minutes of the board
769 of trustees, said new district lines shall thereafter be
770 effective. Provided, however, that in any line consolidated
771 school district encompassing two (2) or more counties created
772 pursuant to Laws, 1953, Extraordinary Session, Chapter 12, Section
773 8, in which, as a condition precedent to the creation of said
774 district, each county belonging thereto was contractually
775 guaranteed to always have at least one (1) representative on said
776 board, in order that said condition precedent may be honored and
777 guaranteed, in any year in which the board of trustees of such
778 line consolidated school district does not have at least one (1)
779 member from each county or part thereof forming such district, the
780 board of trustees in such district shall be governed by a board of
781 a sufficient number of trustees to fulfill this guarantee, five
782 (5) of whom shall be elected from the five (5) special trustee
783 election districts which shall be as nearly equal as possible and
784 one (1) member trustee appointed at large from each county not
785 having representation on the elected board. In such cases, the
786 board of supervisors of each county shall make written agreement
787 to guarantee the manner of appointment of at least one (1)
788 representative from each county in the district, placing such
789 written agreement on the minutes of each board of supervisors in
790 each county.

791 On the first Tuesday after the first Monday in November, in
792 any year in which any line consolidated school district shall
793 elect to utilize the authority to create single member election
794 districts, an election shall be held in each such district in this

795 state for the purpose of electing the board of trustees of such
796 district. At said election the member of the said board from
797 District One shall be elected for a term of one (1) year, the
798 member from District Two shall be elected for a term of two (2)
799 years, the member from District Three shall be elected for a term
800 of three (3) years, the member from District Four shall be elected
801 for a term of four (4) years, and the member from District Five
802 shall be elected for a term of five (5) years. Thereafter,
803 members shall be elected at general elections as vacancies occur
804 for terms of five (5) years each. Trustees elected from single
805 member election districts as provided above shall otherwise be
806 elected as provided for in Sections 37-7-223 through 37-7-229.
807 All members of the said board of trustees shall take office on the
808 first Monday of January following the date of their election. In
809 all elections, the trustee elected shall be a resident and
810 qualified elector of the district entitled to the representation
811 upon the board, and he shall be elected only by the qualified
812 electors of such district. All vacancies which may occur during a
813 term of office shall be filled by appointment of the consolidated
814 line school district trustees, but the person so appointed shall
815 serve only until the next general election following such
816 appointment, at which time a person shall be elected for the
817 remainder of the unexpired term at the same time and in the same
818 manner as the trustee is elected for the full term then expiring.
819 The person so elected to the unexpired term shall take office
820 immediately.

821 (3) In any consolidated school wherein the electors have
822 selected the appointive method of choosing members of the board of
823 trustees as provided in Section 37-5-20(3), the members of the
824 board shall be appointed by the board of supervisors of the county
825 in which the consolidated school district is located in the manner
826 provided in Section 37-7-717(d).

827 **SECTION 7.** Section 37-7-717, Mississippi Code of 1972, is
828 amended as follows:

829 37-7-717. Upon complying with the terms and provisions of
830 Section 37-7-715 hereof, the board of supervisors of any county
831 wherein there is a special municipal separate school district and
832 the governing authorities of the municipality may provide that the
833 board of trustees of such special municipal separate school
834 district shall be organized and constituted in one of the
835 following manners:

836 (a) The said board may consist of five (5) members, all
837 of whom shall be bona fide residents of and qualified electors of
838 such school districts and who shall be appointed by either the
839 board of supervisors, the governing authorities of the
840 municipality, or by both of said bodies in such proportion as the
841 governing bodies may agree upon. The first such board shall be
842 appointed so that one (1) trustee shall be appointed to serve for
843 one (1) year, one for one (1) year longer, one for two (2) years
844 longer, one (1) for three (3) years longer, and one (1) for four
845 (4) years longer. Upon the expiration of each such original term,
846 each appointment shall be for five (5) years and shall be made by
847 the authority making the original appointment. In case of the
848 occurrence of a vacancy, the authority which made the appointment
849 of the trustee responsible for such vacancy shall appoint a
850 successor to serve the remainder of the term of such trustee.

851 (b) In case of a special municipal separate school
852 district which embraces the entire county, the board of trustees
853 may be constituted and selected in accordance with the terms and
854 provisions of Sections 37-7-707 through 37-7-711, with the
855 exception that one (1) member of such board shall be elected by
856 each supervisors district and shall be a resident and qualified
857 elector of the district from which he is elected.

858 (c) In case of a special municipal separate school
859 district embracing the entire county, the board of trustees may be

860 constituted and selected in accordance with the terms and
861 provisions of Section 37-7-713.

862 (d) In the case of a county or consolidated school
863 district in which the electors have chosen pursuant to the
864 referendum provided in Section 37-5-20(1) or (3) to change from
865 the elected method of selecting local school board members to an
866 appointive method, the said board shall consist of five (5)
867 members, all of whom shall be residents of and qualified electors
868 of such school districts, and who shall be appointed by the board
869 of supervisors of the county in which the school district is
870 located. Each member shall be appointed for a term of four (4)
871 years upon the expiration of the preceding term of office. In the
872 case of the occurrence of a vacancy, the board of supervisors
873 shall appoint a successor to serve the remainder of the term of
874 such local school board member.

875 **SECTION 8.** The Attorney General of the State of Mississippi
876 shall submit this act, immediately upon approval by the Governor,
877 or upon approval by the Legislature subsequent to a veto, to the
878 Attorney General of the United States or to the United States
879 District Court for the District of Columbia in accordance with the
880 provisions of the Voting Rights Act of 1965, as amended and
881 extended.

882 **SECTION 9.** This act shall take effect and be in force from
883 and after the date it is effectuated under Section 5 of the Voting
884 Rights Act of 1965, as amended and extended.