

By: Senator(s) Nunnelee

To: Education

SENATE BILL NO. 2549

1 AN ACT TO REQUIRE THE ELECTION OF ALL SCHOOL BOARD MEMBERS IN
2 MUNICIPAL SEPARATE AND SPECIAL MUNICIPAL SEPARATE SCHOOL DISTRICTS
3 BEGINNING WITH THE MUNICIPAL ELECTIONS IN THE YEAR 2009; TO AMEND
4 SECTIONS 37-7-203 AND 37-7-703, MISSISSIPPI CODE OF 1972, TO
5 PROVIDE FOR THE ELECTION OF THE MEMBERS OF SCHOOL BOARDS OF
6 MUNICIPAL SEPARATE SCHOOL DISTRICTS AND SPECIAL MUNICIPAL SEPARATE
7 SCHOOL DISTRICTS FROM SCHOOL BOARD MEMBER DISTRICTS BY THE
8 QUALIFIED ELECTORS OF SUCH DISTRICTS, TO DIRECT THE MUNICIPAL
9 GOVERNING AUTHORITIES TO APPORTION THE SCHOOL DISTRICTS INTO FIVE
10 SCHOOL BOARD MEMBER DISTRICTS, AND TO PRESCRIBE THE TIME AND
11 MANNER OF SUCH ELECTIONS AND THE MANNER IN WHICH VACANCIES ON THE
12 SCHOOL BOARDS SHALL BE FILLED; TO AMEND SECTION 37-7-201,
13 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; TO REPEAL SECTION
14 37-7-204, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR THE
15 APPOINTMENT OF INTERIM BOARD MEMBERS TO FILL CERTAIN VACANCIES ON
16 THE SCHOOL BOARDS OF COUNTYWIDE MUNICIPAL SEPARATE SCHOOL
17 DISTRICTS; TO REPEAL SECTIONS 37-7-209 THROUGH 37-7-219,
18 MISSISSIPPI CODE OF 1972, WHICH PROVIDE CERTAIN METHODS FOR
19 ELECTING TRUSTEES FROM ADDED TERRITORY OF MUNICIPAL SEPARATE
20 SCHOOL DISTRICTS; TO REPEAL SECTIONS 37-7-705 THROUGH 37-7-717,
21 MISSISSIPPI CODE OF 1972, WHICH PROVIDE CERTAIN METHODS FOR
22 SELECTING TRUSTEES OF SPECIAL MUNICIPAL SEPARATE SCHOOL DISTRICTS;
23 AND FOR RELATED PURPOSES.

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

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

27 37-7-203. (1) The school boards * * * of all municipal
28 separate school districts * * * shall consist of five (5) members.
29 Beginning in 2009, each member shall be elected from a special
30 school board member district, as provided for under subsection (2)
31 of this section, by the qualified electors of that district.

32 (2) The municipal governing authority shall apportion the
33 municipal separate school district, including any added territory,
34 into five (5) single school board member districts. The school
35 board member districts shall be as nearly equal as possible
36 according to population. The municipal governing authority shall
37 submit the school board member district lines to the Attorney

38 General of the United States for preclearance or to the United
39 States District Court for the District of Columbia for a
40 declaratory judgment in accordance with the provisions of the
41 Voting Rights Act of 1965, as amended and extended. If the school
42 board member district lines are precleared by the United States
43 Department of Justice or approved by the United States District
44 Court, the municipal governing authority and the school board of
45 the municipal separate school district shall place upon their
46 minutes the boundaries established for the five (5) school board
47 member districts, and the school board shall publish the
48 boundaries in a newspaper of general circulation within the school
49 district for at least three (3) consecutive weeks. After having
50 given notice of publication and recording the publication upon the
51 minutes of the school board, the school board member district
52 lines shall be effective. As soon as practicable after the
53 results of the 2010 decennial census and every decennial census
54 thereafter are published, the municipal governing authority shall
55 reapportion the school board member districts in the manner
56 prescribed in this subsection for the creation of the original
57 districts.

58 (3) On the first Tuesday after the first Monday in June
59 2009, and every four (4) years thereafter, an election shall be
60 held in every municipal separate school district, in the same
61 manner and at the same time as the general municipal elections are
62 held, for the purpose of electing the members of the school board
63 of the municipal separate school district. Provided, however,
64 that in any special charter municipality where the general
65 municipal election date is different from June 2009, the members
66 of the school board of the municipal separate school district
67 shall be elected as provided in this section in the same manner
68 and at the same time as the general municipal elections are held
69 in such special charter municipality. Candidates for the school
70 board of the municipal separate school district shall file with

71 the municipal election commissioners, not more than ninety (90)
72 days and not less than sixty (60) days before the date of the
73 general election, a petition of nomination signed by at least
74 fifty (50) or twenty percent (20%) of the qualified electors of
75 the school board member district, whichever is less. The name of
76 each qualified candidate shall be placed on the ballot. The
77 candidate in each school board member district who receives a
78 majority of the votes cast by the qualified electors in that
79 district shall be elected. However, if no candidate receives a
80 majority of the votes, a runoff election shall be held two (2)
81 weeks after the election. The names of the candidate receiving
82 the highest number of votes and the candidate, or candidates in
83 the event of a tie, receiving the next highest vote for the office
84 shall be placed on the ballot in the runoff election. The person
85 receiving the highest number of votes cast by the qualified
86 electors in the runoff election shall be elected. All persons
87 elected to serve on the school board of the municipal separate
88 school district shall take office on the first Monday of July next
89 following the date of their election and shall serve for a term of
90 four (4) years.

91 (4) Notwithstanding any other provision of law to the
92 contrary, in each municipal separate school district, the terms of
93 all school board members, whether appointed or elected, existing
94 on the first Tuesday after the first Monday in June 2009 shall
95 expire when their duly elected successors take office on the first
96 Monday of July 2009, or on the first Monday of July following the
97 general municipal election date in a special charter municipality.

98 (5) Whenever there is a vacancy in the membership of the
99 school board of the municipal separate school district, the
100 vacancy shall be filled, depending upon the length of the
101 unexpired term of the vacated office, in the manner provided under
102 this subsection.

103 (a) If the unexpired term of the vacated office is six
104 (6) months or less, the remaining members of the school board
105 shall appoint, within sixty (60) days after the vacancy occurs, a
106 person to serve the unexpired portion of the term. The appointee
107 shall be selected from the qualified electors of the school board
108 member district in which the vacancy occurs. The chairman of the
109 school board shall certify to the Secretary of State the fact of
110 the appointment, and the Governor shall commission the person
111 appointed.

112 (b) If the unexpired term of the vacated office is
113 greater than six (6) months, an election shall be held to fill the
114 vacancy. The school board shall certify in writing the fact of
115 the vacancy to the governing authority of the municipality. At
116 the next regular meeting of the governing authority after its
117 receipt of certification of the vacancy from the school board, the
118 governing authority shall make and enter on its minutes an order
119 for an election to be held in the school board member district in
120 which the vacancy exists and shall fix the date upon which the
121 election shall be held, which date shall not be less than thirty
122 (30) days nor more than forty-five (45) days after the date upon
123 which the order is adopted.

124 The municipal clerk shall publish notice of the election in a
125 newspaper of general circulation within the municipality once each
126 week for three (3) successive weeks preceding the date of the
127 election. The first notice must be published at least thirty (30)
128 days before the date of the election. Notice also shall be given
129 by the school board by posting a copy of the notice at three (3)
130 public places in the school board member district in which the
131 vacancy exists and at the administrative offices of the school
132 board not less than twenty-one (21) days before the date of the
133 election.

134 Candidates for the vacated office shall file with the
135 municipal clerk, not less than ten (10) days before the date of

136 the election, a petition of nomination signed by at least fifty
137 (50) or twenty percent (20%) of the qualified electors of the
138 school board member district, whichever is less. The election
139 shall be held, as far as practicable, in the same manner as
140 general elections are conducted under subsection (3) of this
141 section. The candidate who receives a majority of the votes cast
142 by the qualified electors in the school board member district
143 shall be elected. However, if no candidate receives a majority of
144 the votes, a runoff election shall be held two (2) weeks after the
145 election. The names of the candidate receiving the highest number
146 of votes and the candidate, or candidates in the event of a tie,
147 receiving the next highest vote for the office shall be placed on
148 the ballot in the runoff election. The person receiving the
149 highest number of votes cast by the qualified electors in the
150 runoff election shall be elected. The clerk of the municipal
151 election commission shall give a certificate of election to the
152 person elected and shall return to the Secretary of State a copy
153 of the order of holding the election and its results, certified by
154 the municipal clerk. The Governor shall commission the person
155 elected to serve the remainder of the unexpired term.

156 However, if nine (9) days before the date of the election
157 only one (1) person has qualified as a candidate, the governing
158 authority shall dispense with the election, and the remaining
159 members of the school board shall appoint that candidate to fill
160 the unexpired term. If no person has qualified at least nine (9)
161 days before the election, the governing authority shall dispense
162 with the election, and the remaining members of the school board
163 shall appoint a person, selected from the qualified electors of
164 the school board member district in which the vacancy exists, to
165 fill the unexpired term. The chairman of the school board shall
166 certify to the Secretary of State the fact of the appointment, and
167 the Governor shall commission the person appointed.

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

170 37-7-703. (1) In all * * * special municipal separate
171 school districts, beginning in 2009, * * * the school board * * *
172 of such special municipal separate school district shall be
173 elected in the manner provided in this section * * *.

174 (2) Each member of the school board of the special municipal
175 separate school district shall be elected from a special school
176 board member district by the qualified electors of that district.
177 The municipal governing authority shall apportion the special
178 municipal separate school district, including any added territory,
179 into five (5) single school board member districts. The school
180 board member districts shall be as nearly equal as possible
181 according to population. The municipal governing authority shall
182 submit the school board member district lines to the Attorney
183 General of the United States for preclearance or to the United
184 States District Court for the District of Columbia for a
185 declaratory judgment in accordance with the provisions of the
186 Voting Rights Act of 1965, as amended and extended. If the school
187 board member district lines are precleared by the United States
188 Department of Justice or approved by the United States District
189 Court, the municipal governing authority and the school board of
190 the special municipal separate school district shall place upon
191 their minutes the boundaries established for the five (5) school
192 board member districts, and the school board shall publish the
193 boundaries in a newspaper of general circulation within the school
194 district for at least three (3) consecutive weeks. After having
195 given notice of publication and recording the publication upon the
196 minutes of the school board, the school board member district
197 lines shall be effective. As soon as practicable after the
198 results of the 2010 decennial census and every decennial census
199 thereafter are published, the municipal governing authority shall
200 reapportion the school board member districts in the manner

201 prescribed in this subsection for the creation of the original
202 districts.

203 (3) On the first Tuesday after the first Monday in June
204 2009, and every four (4) years thereafter, an election shall be
205 held in every special municipal separate school district, in the
206 same manner and at the same time as the general municipal
207 elections are held, for the purpose of electing the members of the
208 school board of the special municipal separate school district.
209 Provided, however, that in any special charter municipality where
210 the general municipal election date is different from June 2009,
211 the members of the school board of the municipal separate school
212 district shall be elected as provided in this section in the same
213 manner and at the same time as the general municipal elections are
214 held in such special charter municipality. Candidates for the
215 school board of the special municipal separate school district
216 shall file with the municipal election commissioners, not more
217 than ninety (90) days and not less than sixty (60) days before the
218 date of the general election, a petition of nomination signed by
219 at least fifty (50) or twenty percent (20%) of the qualified
220 electors of the school board member district, whichever is less.
221 The name of each qualified candidate shall be placed on the
222 ballot. The candidate in each school board member district who
223 receives a majority of the votes cast by the qualified electors in
224 that district shall be elected. However, if no candidate receives
225 a majority of the votes, a runoff election shall be held two (2)
226 weeks after the election. The names of the candidate receiving
227 the highest number of votes and the candidate, or candidates in
228 the event of a tie, receiving the next highest vote for the office
229 shall be placed on the ballot in the runoff election. The person
230 receiving the highest number of votes cast by the qualified
231 electors in the runoff election shall be elected. All persons
232 elected to serve on the school board of the special municipal
233 separate school district shall take office on the first Monday of

234 July next following the date of their election and shall serve for
235 a term of four (4) years.

236 (4) Notwithstanding any other provision of law to the
237 contrary, in each special municipal separate school district, the
238 terms of all school board members, whether appointed or elected,
239 existing on the first Tuesday after the first Monday in June 2009
240 shall expire when their duly elected successors take office on the
241 first Monday of July 2009 or on the first Monday of July following
242 the general municipal election date if such municipality is a
243 special charter municipality.

244 (5) Whenever there is a vacancy in the membership of the
245 school board of the special municipal separate school district,
246 the vacancy shall be filled, depending upon the length of the
247 unexpired term of the vacated office, in the manner provided under
248 this subsection.

249 (a) If the unexpired term of the vacated office is six
250 (6) months or less, the remaining members of the school board
251 shall appoint, within sixty (60) days after the vacancy occurs, a
252 person to serve the unexpired portion of the term. The appointee
253 shall be selected from the qualified electors of the school board
254 member district in which the vacancy occurs. The chairman of the
255 school board shall certify to the Secretary of State the fact of
256 the appointment, and the Governor shall commission the person
257 appointed.

258 (b) If the unexpired term of the vacated office is
259 greater than six (6) months, an election shall be held to fill the
260 vacancy. The school board shall certify in writing the fact of
261 the vacancy to the governing authority of the municipality. At
262 the next regular meeting of the governing authority after its
263 receipt of certification of the vacancy from the school board, the
264 governing authority shall make and enter on its minutes an order
265 for an election to be held in the school board member district in
266 which the vacancy exists and shall fix the date upon which the

267 election shall be held, which date shall not be less than thirty
268 (30) days nor more than forty-five (45) days after the date upon
269 which the order is adopted.

270 The municipal clerk shall publish notice of the election in a
271 newspaper of general circulation within the municipality once each
272 week for three (3) successive weeks preceding the date of the
273 election. The first notice must be published at least thirty (30)
274 days before the date of the election. Notice also shall be given
275 by the school board by posting a copy of the notice at three (3)
276 public places in the school board member district in which the
277 vacancy exists and at the administrative offices of the school
278 board not less than twenty-one (21) days before the date of the
279 election.

280 Candidates for the vacated office shall file with the
281 municipal clerk, not less than ten (10) days before the date of
282 the election, a petition of nomination signed by at least fifty
283 (50) or twenty percent (20%) of the qualified electors of the
284 school board member district, whichever is less. The election
285 shall be held, as far as practicable, in the same manner as
286 general elections are conducted under subsection (3) of this
287 section. The candidate who receives a majority of the votes cast
288 by the qualified electors in the school board member district
289 shall be elected. However, if no candidate receives a majority of
290 the votes, a runoff election shall be held two (2) weeks after the
291 election. The names of the candidate receiving the highest number
292 of votes and the candidate, or candidates in the event of a tie,
293 receiving the next highest vote for the office shall be placed on
294 the ballot in the runoff election. The person receiving the
295 highest number of votes cast by the qualified electors in the
296 runoff election shall be elected. The clerk of the municipal
297 election commission shall give a certificate of election to the
298 person elected and shall return to the Secretary of State a copy
299 of the order of holding the election and its results, certified by

300 the municipal clerk. The Governor shall commission the person
301 elected to serve the remainder of the unexpired term.

302 However, if nine (9) days before the date of the election
303 only one (1) person has qualified as a candidate, the governing
304 authority shall dispense with the election, and the remaining
305 members of the school board shall appoint that candidate to fill
306 the unexpired term. If no person has qualified at least nine (9)
307 days before the election, the governing authority shall dispense
308 with the election, and the remaining members of the school board
309 shall appoint a person, selected from the qualified electors of
310 the school board member district in which the vacancy exists, to
311 fill the unexpired term. The chairman of the school board shall
312 certify to the Secretary of State the fact of the appointment, and
313 the Governor shall commission the person appointed.

314 **SECTION 3.** Section 37-7-201, Mississippi Code of 1972, is
315 amended as follows:

316 37-7-201. In order for a person to be eligible to hold the
317 office of school board member of any school district, such person
318 must be a bona fide resident and a qualified elector of * * * the
319 school board member district entitled to such representation on
320 the school board.

321 **SECTION 4.** Section 37-7-204, Mississippi Code of 1972, which
322 provides for the appointment of interim board members to fill
323 certain vacancies on the school boards of countywide municipal
324 separate school districts, shall stand repealed from and after
325 January 1, 2009.

326 **SECTION 5.** Sections 37-7-209, 37-7-211, 37-7-213, 37-7-215,
327 37-7-217 and 37-7-219, Mississippi Code of 1972, which provide
328 certain methods for electing trustees from added territory of
329 municipal separate school districts, shall stand repealed from and
330 after January 1, 2009.

331 **SECTION 6.** Sections 37-7-705, 37-7-707, 37-7-709, 37-7-711,
332 37-7-713, 37-7-715 and 37-7-717, Mississippi Code of 1972, which

333 provide various methods for selecting trustees of special
334 municipal separate school districts, shall stand repealed from and
335 after January 1, 2009.

336 **SECTION 7.** The Attorney General of the State of Mississippi
337 shall submit this act, immediately upon approval by the Governor,
338 or upon approval by the Legislature subsequent to a veto, to the
339 Attorney General of the United States or to the United States
340 District Court for the District of Columbia in accordance with the
341 provisions of the Voting Rights Act of 1965, as amended and
342 extended.

343 **SECTION 8.** This act shall take effect and be in force from
344 and after the date it is effectuated under Section 5 of the Voting
345 Rights Act of 1965, as amended and extended.