

By: Senator(s) Thomas

To: Education

SENATE BILL NO. 2143

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, 37-7-201, 37-7-203, 37-7-207,
23 37-7-703 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 three (3) 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 37-7-201, Mississippi Code of 1972, is
221 amended as follows:

222 37-7-201. In order for a person to be eligible to hold the
223 office of school board member of any school district, such person
224 must be a bona fide resident and a qualified elector of * * * the
225 school board member district entitled to such representation on
226 the school board.

227 **SECTION 4.** Section 37-7-203, Mississippi Code of 1972, is
228 amended as follows:

229 37-7-203. (1) The boards of trustees of all municipal
230 separate school districts created under the provisions of Article
231 1 of this chapter, either with or without added territory, shall
232 consist of five (5) members, each to be chosen for a term of five
233 (5) years, but so chosen that the term of office of one (1) member
234 shall expire each year. In the event the added territory of a
235 municipal separate school district furnishes fifteen percent (15%)

236 or more of the pupils enrolled in the schools of such district,
237 then at least one (1) member of the board of trustees of such
238 school district shall be a resident of the added territory outside
239 the corporate limits. In the event the added territory of a
240 municipal separate school district furnishes thirty percent (30%)
241 or more of the pupils enrolled in the schools of such district,
242 then not more than two (2) members of the board of trustees of
243 such school district shall be residents of the added territory
244 outside the corporate limits. In the event the added territory of
245 a municipal separate school district in a county in which
246 Mississippi Highways 8 and 15 intersect furnishes thirty percent
247 (30%) or more of the pupils enrolled in the schools of such
248 district, then the five (5) members of the board of trustees of
249 such school district shall be elected at large from such school
250 district for a term of five (5) years each except that the two (2)
251 elected trustees presently serving on such board shall continue to
252 serve for their respective terms of office. The three (3)
253 appointed trustees presently serving on such board shall continue
254 to serve until their successors are elected in March of 1975 in
255 the manner provided for in Section 37-7-215. At such election,
256 one (1) trustee shall be elected for a term of two (2) years, one
257 (1) for a term of three (3) years and one (1) for a term of five
258 (5) years. Subsequent terms for each successor trustee shall be
259 for five (5) years. In the event one (1) of two (2) municipal
260 separate school districts located in any county with two (2)
261 judicial districts, District 1 being comprised of Supervisors
262 Districts 1, 2, 4 and 5, and District 2 being comprised of
263 Supervisors District 3, with added territory embraces three (3)
264 full supervisors districts of a county, one (1) trustee shall be
265 elected from each of the three (3) supervisors districts outside
266 the corporate limits of the municipality. In the further event
267 that the territory of a municipal separate school district located
268 in any county with two (2) judicial districts, District 1 being

269 comprised of Supervisors Districts 1, 2, 4 and 5, and District 2
270 being comprised of Supervisors District 3, with added territory
271 embraces four (4) full supervisors districts in the county, and in
272 any county in which a municipal separate school district embraces
273 the entire county in which Highways 14 and 15 intersect, one (1)
274 trustee shall be elected from each supervisors district.

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

289 In the event that a portion of a county school district is
290 reconstituted, in the manner provided by law, into a municipal
291 separate school district with added territory and in the event
292 that the trustees to be elected from the added territory are
293 requested to be elected from separate election districts within
294 the added territory, instead of elected at large, by the Attorney
295 General of the United States as a result of and pursuant to
296 preclearance under Section 5 of the Voting Rights Act of 1965 as
297 amended and extended, and in the event the added territory of a
298 municipal separate school district of a municipality furnishes
299 thirty percent (30%) or more of the pupils enrolled in the schools
300 of such district, then two (2) members of the board of trustees
301 shall be residents of the added territory outside the corporate

302 limits of such municipality and shall be elected from special
303 trustee election districts by the qualified electors thereof as
304 herein provided. The board of trustees of the school district
305 shall apportion the added territory into two (2) special trustee
306 election districts as nearly as possible according to population
307 and other factors heretofore pronounced by the courts. The board
308 of trustees of the school district shall thereafter publish the
309 same in a newspaper of general circulation within said school
310 district for at least two (2) consecutive weeks; and after having
311 given notice of publication and recording the same upon the
312 minutes of the board of trustees of the school district, said new
313 district lines shall thereafter be effective. Any person elected
314 from the new trustee election districts constituted herein shall
315 be elected in the manner provided for in Section 37-7-215 for a
316 term of five (5) years. Any vacancy in the office of a trustee
317 elected from such trustee election district, whether occasioned by
318 redistricting or by other cause, shall be filled by appointment of
319 the governing authorities of the municipality, provided that the
320 person so appointed shall serve only until the first Saturday of
321 March following his appointment, at which time a person shall be
322 elected for the remainder of the unexpired term in the manner
323 provided in Section 37-7-215.

324 In any county organizing a countywide municipal separate
325 school district after January 1, 1965, the trustees thereof to be
326 elected from outside the municipality, such trustees shall be
327 elected by the board of supervisors of such county, and the
328 superintendent of such school district shall have authority to pay
329 out and distribute the funds of said district. In the event a
330 municipal separate school district should occupy territory in a
331 county other than that in which the municipality is located and
332 fifteen percent (15%) or more of the pupils enrolled in the
333 schools of such district shall come from the territory of the
334 district in the county other than that in which the municipality

335 is located, the territory of such county in which the municipality
336 is not located shall be entitled to one (1) member on the board of
337 trustees of such school district. Said trustee shall be a
338 resident of the territory of that part of the district lying in
339 the county in which the municipality is not located and shall be
340 elected by the qualified electors of the territory of such county
341 at the same time and in the same manner as is provided for the
342 election of trustees of school districts other than municipal
343 separate school districts having territory in two (2) or more
344 counties.

345 All vacancies shall be filled for the unexpired terms by
346 appointment of the governing authorities of the municipality;
347 except that in the case of the trustees coming from the added
348 territory outside the corporate limits, the person so appointed
349 shall serve only until the first Saturday of March following his
350 appointment, at which time a person shall be elected for the
351 remainder of the unexpired term in the manner otherwise provided
352 herein.

353 No person who is a member of such governing body, or who is
354 an employee of the municipality, or who is a member of the county
355 board of education, or who is a trustee of any public, private or
356 sectarian school or college located in the county, inclusive of
357 the municipal separate school district, or who is a teacher in or
358 a trustee of said school district, shall be eligible for
359 appointment to said board of trustees.

360 (2) In counties of less than fifteen thousand (15,000)
361 people having a municipal separate school district with added
362 territory which embraces all the territory of a county, one (1) or
363 more trustees of such district shall be nominated from each
364 supervisors district upon petition of fifty (50) qualified
365 electors of said district, or twenty percent (20%) of the
366 qualified electors of such district, whichever number shall be
367 smaller, and shall be elected by a plurality of the vote of the

368 qualified electors of said county. One (1) trustee so elected
369 shall reside in each supervisors district of the county. In such
370 counties embraced entirely by a municipal separate school district
371 there shall be no county board of education after the formation of
372 such district and the county superintendent of education shall act
373 as superintendent of schools of said district and shall be
374 appointed by the board of trustees of said district, and the
375 provisions of subsection (1) of this section and the first
376 paragraph of Section 37-7-211 shall not apply to such districts.

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

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

389 (2) The municipal governing authority shall apportion the
390 municipal separate school district, including any added territory,
391 into five (5) single school board member districts. The school
392 board member districts shall be as nearly equal as possible
393 according to population. The municipal governing authority shall
394 submit the school board member district lines to the Attorney
395 General of the United States for preclearance or to the United
396 States District Court for the District of Columbia for a
397 declaratory judgment in accordance with the provisions of the
398 Voting Rights Act of 1965, as amended and extended. If the school
399 board member district lines are precleared by the United States
400 Department of Justice or approved by the United States District

401 Court, the municipal governing authority and the school board of
402 the municipal separate school district shall place upon their
403 minutes the boundaries established for the five (5) school board
404 member districts, and the school board shall publish the
405 boundaries in a newspaper of general circulation within the school
406 district for at least three (3) consecutive weeks. After having
407 given notice of publication and recording the publication upon the
408 minutes of the school board, the school board member district
409 lines shall be effective. As soon as practicable after the
410 results of the 2010 decennial census and every decennial census
411 thereafter are published, the municipal governing authority shall
412 reapportion the school board member districts in the manner
413 prescribed in this subsection for the creation of the original
414 districts.

415 (3) On the first Tuesday after the first Monday in June
416 2009, and every four (4) years thereafter, an election shall be
417 held in every municipal separate school district, in the same
418 manner and at the same time as the general municipal elections are
419 held, for the purpose of electing the members of the school board
420 of the municipal separate school district. Provided, however,
421 that in any special charter municipality where the general
422 municipal election date is different from June 2009, the members
423 of the school board of the municipal separate school district
424 shall be elected as provided in this section in the same manner
425 and at the same time as the general municipal elections are held
426 in such special charter municipality. Candidates for the school
427 board of the municipal separate school district shall file with
428 the municipal election commissioners, not more than ninety (90)
429 days and not less than sixty (60) days before the date of the
430 general election, a petition of nomination signed by at least
431 fifty (50) or twenty percent (20%) of the qualified electors of
432 the school board member district, whichever is less. The name of
433 each qualified candidate shall be placed on the ballot. The

434 candidate in each school board member district who receives a
435 majority of the votes cast by the qualified electors in that
436 district shall be elected. However, if no candidate receives a
437 majority of the votes, a runoff election shall be held two (2)
438 weeks after the election. The names of the candidate receiving
439 the highest number of votes and the candidate, or candidates in
440 the event of a tie, receiving the next highest vote for the office
441 shall be placed on the ballot in the runoff election. The person
442 receiving the highest number of votes cast by the qualified
443 electors in the runoff election shall be elected. All persons
444 elected to serve on the school board of the municipal separate
445 school district shall take office on the first Monday of July next
446 following the date of their election and shall serve for a term of
447 four (4) years.

448 (4) Notwithstanding any other provision of law to the
449 contrary, in each municipal separate school district, the terms of
450 all school board members, whether appointed or elected, existing
451 on the first Tuesday after the first Monday in June 2009 shall
452 expire when their duly elected successors take office on the first
453 Monday of July 2009, or on the first Monday of July following the
454 general municipal election date in a special charter municipality.

455 (5) Whenever there is a vacancy in the membership of the
456 school board of the municipal separate school district, the
457 vacancy shall be filled, depending upon the length of the
458 unexpired term of the vacated office, in the manner provided under
459 this subsection.

460 (a) If the unexpired term of the vacated office is six
461 (6) months or less, the remaining members of the school board
462 shall appoint, within sixty (60) days after the vacancy occurs, a
463 person to serve the unexpired portion of the term. The appointee
464 shall be selected from the qualified electors of the school board
465 member district in which the vacancy occurs. The chairman of the
466 school board shall certify to the Secretary of State the fact of

467 the appointment, and the Governor shall commission the person
468 appointed.

469 (b) If the unexpired term of the vacated office is
470 greater than six (6) months, an election shall be held to fill the
471 vacancy. The school board shall certify in writing the fact of
472 the vacancy to the governing authority of the municipality. At
473 the next regular meeting of the governing authority after its
474 receipt of certification of the vacancy from the school board, the
475 governing authority shall make and enter on its minutes an order
476 for an election to be held in the school board member district in
477 which the vacancy exists and shall fix the date upon which the
478 election shall be held, which date shall not be less than thirty
479 (30) days nor more than forty-five (45) days after the date upon
480 which the order is adopted.

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

491 Candidates for the vacated office shall file with the
492 municipal clerk, not less than ten (10) days before the date of
493 the election, a petition of nomination signed by at least fifty
494 (50) or twenty percent (20%) of the qualified electors of the
495 school board member district, whichever is less. The election
496 shall be held, as far as practicable, in the same manner as
497 general elections are conducted under subsection (3) of this
498 section. The candidate who receives a majority of the votes cast
499 by the qualified electors in the school board member district

500 shall be elected. However, if no candidate receives a majority of
501 the votes, a runoff election shall be held two (2) weeks after the
502 election. The names of the candidate receiving the highest number
503 of votes and the candidate, or candidates in the event of a tie,
504 receiving the next highest vote for the office shall be placed on
505 the ballot in the runoff election. The person receiving the
506 highest number of votes cast by the qualified electors in the
507 runoff election shall be elected. The clerk of the municipal
508 election commission shall give a certificate of election to the
509 person elected and shall return to the Secretary of State a copy
510 of the order of holding the election and its results, certified by
511 the municipal clerk. The Governor shall commission the person
512 elected to serve the remainder of the unexpired term.

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

525 **SECTION 5.** Section 37-7-207, Mississippi Code of 1972, is
526 amended as follows:

527 37-7-207. (1) All school districts reconstituted or created
528 under the provisions of Article 1 of this chapter, and which lie
529 wholly within one (1) county, but not including municipal separate
530 and countywide districts, shall be governed by a board of five (5)
531 trustees. The first board of trustees of such districts shall be
532 appointed by the county board of education, and the original

533 appointments shall be so made that one (1) trustee shall be
534 appointed to serve until the first Saturday of March following
535 such appointments, one (1) for one (1) year longer, one (1) for
536 two (2) years longer, one (1) for three (3) years longer, and one
537 (1) for four (4) years longer. After such original appointments,
538 the trustees of such school districts shall be elected by the
539 qualified electors of such school districts in the manner provided
540 for in Sections 37-7-223 through 37-7-229, with each trustee to be
541 elected for a term of five (5) years. The five (5) members of the
542 board of trustees of such consolidated school district shall be
543 elected from special trustee election districts by the qualified
544 electors thereof, as herein provided. The board of trustees of
545 any such consolidated school district shall apportion the
546 consolidated school district into five (5) special trustee
547 election districts. The board of trustees of such school district
548 shall place upon its minutes the boundaries determined for the new
549 five (5) trustee election districts. The board of trustees shall
550 thereafter publish the same in a newspaper of general circulation
551 within said school district for at least three (3) consecutive
552 weeks; and after having given notice of publication and recording
553 the same upon the minutes of the board of trustees, said new
554 district lines shall thereafter be effective.

555 On the first Tuesday after the first Monday in November, in
556 any year in which any consolidated school district shall elect to
557 utilize the authority to create single member election districts,
558 an election shall be held in each such district in this state for
559 the purpose of electing the board of trustees of such district.
560 At said election the member of the said board from District One
561 shall be elected for a term of one (1) year, the member from
562 District Two shall be elected for a term of two (2) years, the
563 member from District Three shall be elected for a term of three
564 (3) years, the member from District Four shall be elected for a
565 term of four (4) years, and the member from District Five shall be

566 elected for a term of five (5) years. Thereafter, members shall
567 be elected at general elections as vacancies occur for terms of
568 five (5) years each. Trustees elected from single member election
569 districts as provided above shall otherwise be elected as provided
570 for in Sections 37-7-223 through 37-7-229. All members of the
571 said board of trustees shall take office on the first Monday of
572 January following the date of their election. All vacancies which
573 may occur during a term shall be filled by appointment of the
574 consolidated school district trustees, but the person so appointed
575 shall serve only until the next general election following such
576 appointment, at which time a person shall be elected for the
577 remainder of the unexpired term at the same time and in the same
578 manner as a trustee is elected for the full term then expiring.
579 The person so elected to the unexpired term shall take office
580 immediately. Said appointee shall be selected from the qualified
581 electors of the district in which the vacancy occurs.

582 (2) All school districts reconstituted and created under the
583 provisions of Article 1 of this chapter, which embrace territory
584 in two (2) or more counties, but not including municipal separate
585 school districts, shall be governed by a board of five (5)
586 trustees. In making the original appointments, the several county
587 boards of education shall appoint the trustee or trustees to which
588 the territory in such county is entitled, and, by agreement
589 between the county boards concerned, one (1) person shall be
590 appointed to serve until the first Saturday of March following,
591 one (1) for one (1) year longer, one (1) for two (2) years longer,
592 one (1) for three (3) years longer and one (1) for four (4) years
593 longer. Thereafter, such trustees shall be elected as is provided
594 for in Sections 37-7-223 through 37-7-229, for a term of five (5)
595 years. The five (5) members of the board of trustees of such line
596 consolidated school district shall be elected from special trustee
597 election districts by the qualified electors thereof, as herein
598 provided. The existing board of trustees of such line

599 consolidated school district shall apportion the line consolidated
600 school district into five (5) special trustee election districts.
601 The board of trustees shall place upon its minutes the boundaries
602 determined for the new five (5) trustee election districts. The
603 board of trustees shall thereafter publish the same in a newspaper
604 of general circulation within said school district for at least
605 three (3) consecutive weeks; and after having given notice of
606 publication and recording the same upon the minutes of the board
607 of trustees, said new district lines shall thereafter be
608 effective. Provided, however, that in any line consolidated
609 school district encompassing two (2) or more counties created
610 pursuant to Laws, 1953, Extraordinary Session, Chapter 12, Section
611 8, in which, as a condition precedent to the creation of said
612 district, each county belonging thereto was contractually
613 guaranteed to always have at least one (1) representative on said
614 board, in order that said condition precedent may be honored and
615 guaranteed, in any year in which the board of trustees of such
616 line consolidated school district does not have at least one (1)
617 member from each county or part thereof forming such district, the
618 board of trustees in such district shall be governed by a board of
619 a sufficient number of trustees to fulfill this guarantee, five
620 (5) of whom shall be elected from the five (5) special trustee
621 election districts which shall be as nearly equal as possible and
622 one (1) member trustee appointed at large from each county not
623 having representation on the elected board. In such cases, the
624 board of supervisors of each county shall make written agreement
625 to guarantee the manner of appointment of at least one (1)
626 representative from each county in the district, placing such
627 written agreement on the minutes of each board of supervisors in
628 each county.

629 On the first Tuesday after the first Monday in November, in
630 any year in which any line consolidated school district shall
631 elect to utilize the authority to create single member election

632 districts, an election shall be held in each such district in this
633 state for the purpose of electing the board of trustees of such
634 district. At said election the member of the said board from
635 District One shall be elected for a term of one (1) year, the
636 member from District Two shall be elected for a term of two (2)
637 years, the member from District Three shall be elected for a term
638 of three (3) years, the member from District Four shall be elected
639 for a term of four (4) years, and the member from District Five
640 shall be elected for a term of five (5) years. Thereafter,
641 members shall be elected at general elections as vacancies occur
642 for terms of five (5) years each. Trustees elected from single
643 member election districts as provided above shall otherwise be
644 elected as provided for in Sections 37-7-223 through 37-7-229.
645 All members of the said board of trustees shall take office on the
646 first Monday of January following the date of their election. In
647 all elections, the trustee elected shall be a resident and
648 qualified elector of the district entitled to the representation
649 upon the board, and he shall be elected only by the qualified
650 electors of such district. All vacancies which may occur during a
651 term of office shall be filled by appointment of the consolidated
652 line school district trustees, but the person so appointed shall
653 serve only until the next general election following such
654 appointment, at which time a person shall be elected for the
655 remainder of the unexpired term at the same time and in the same
656 manner as the trustee is elected for the full term then expiring.
657 The person so elected to the unexpired term shall take office
658 immediately.

659 (3) In any consolidated school wherein the electors have
660 selected the appointive method of choosing members of the board of
661 trustees as provided in Section 37-5-20(3), the members of the
662 board shall be appointed by the board of supervisors of the county
663 in which the consolidated school district is located in the manner
664 provided in Section 37-7-717(d).

665 **SECTION 6.** Section 37-7-703, Mississippi Code of 1972, is
666 amended as follows:

667 37-7-703. In all such special municipal separate school
668 districts which embrace the entire county in which, according to
669 the latest available federal census, a majority of the inhabitants
670 of the county reside within the corporate limits of the
671 municipality, the board of trustees of such special municipal
672 separate school district shall be chosen and selected in the
673 manner provided by subsection (1) of Section 37-7-203, and all of
674 the provisions thereof shall be fully applicable in all respects
675 to the selection and constitution of such board of trustees.

676 [In any special municipal school district in which the
677 electors have voted to adopt the elected method of selecting
678 school board members pursuant to Section 37-5-20(2), this section
679 shall read as follows:]

680 37-7-703. (1) In all * * * special municipal separate
681 school districts, beginning in 2009, or in any year of a general
682 municipal election subsequent to the adoption of the elective
683 method of selecting the board of trustees under Section
684 37-5-20(2), * * * the school board * * * of such special municipal
685 separate school district shall be elected in the manner provided
686 in this section * * *.

687 (2) Each member of the school board of the special municipal
688 separate school district shall be elected from a special school
689 board member district by the qualified electors of that district.
690 The municipal governing authority shall apportion the special
691 municipal separate school district, including any added territory,
692 into five (5) single school board member districts. The school
693 board member districts shall be as nearly equal as possible
694 according to population. The municipal governing authority shall
695 submit the school board member district lines to the Attorney
696 General of the United States for preclearance or to the United
697 States District Court for the District of Columbia for a

698 declaratory judgment in accordance with the provisions of the
699 Voting Rights Act of 1965, as amended and extended. If the school
700 board member district lines are precleared by the United States
701 Department of Justice or approved by the United States District
702 Court, the municipal governing authority and the school board of
703 the special municipal separate school district shall place upon
704 their minutes the boundaries established for the five (5) school
705 board member districts, and the school board shall publish the
706 boundaries in a newspaper of general circulation within the school
707 district for at least three (3) consecutive weeks. After having
708 given notice of publication and recording the publication upon the
709 minutes of the school board, the school board member district
710 lines shall be effective. As soon as practicable after the
711 results of the 2010 decennial census and every decennial census
712 thereafter are published, the municipal governing authority shall
713 reapportion the school board member districts in the manner
714 prescribed in this subsection for the creation of the original
715 districts.

716 (3) On the first Tuesday after the first Monday in June
717 2009, and every four (4) years thereafter, an election shall be
718 held in every special municipal separate school district, in the
719 same manner and at the same time as the general municipal
720 elections are held, for the purpose of electing the members of the
721 school board of the special municipal separate school district.
722 Provided, however, that in any special charter municipality where
723 the general municipal election date is different from June 2009,
724 the members of the school board of the municipal separate school
725 district shall be elected as provided in this section in the same
726 manner and at the same time as the general municipal elections are
727 held in such special charter municipality. Candidates for the
728 school board of the special municipal separate school district
729 shall file with the municipal election commissioners, not more
730 than ninety (90) days and not less than sixty (60) days before the

731 date of the general election, a petition of nomination signed by
732 at least fifty (50) or twenty percent (20%) of the qualified
733 electors of the school board member district, whichever is less.
734 The name of each qualified candidate shall be placed on the
735 ballot. The candidate in each school board member district who
736 receives a majority of the votes cast by the qualified electors in
737 that district shall be elected. However, if no candidate receives
738 a majority of the votes, a runoff election shall be held two (2)
739 weeks after the election. The names of the candidate receiving
740 the highest number of votes and the candidate, or candidates in
741 the event of a tie, receiving the next highest vote for the office
742 shall be placed on the ballot in the runoff election. The person
743 receiving the highest number of votes cast by the qualified
744 electors in the runoff election shall be elected. All persons
745 elected to serve on the school board of the special municipal
746 separate school district shall take office on the first Monday of
747 July next following the date of their election and shall serve for
748 a term of four (4) years.

749 (4) Notwithstanding any other provision of law to the
750 contrary, in each special municipal separate school district, the
751 terms of all school board members, whether appointed or elected,
752 existing on the first Tuesday after the first Monday in June 2009
753 shall expire when their duly elected successors take office on the
754 first Monday of July 2009 or on the first Monday of July following
755 the general municipal election date if such municipality is a
756 special charter municipality.

757 (5) Whenever there is a vacancy in the membership of the
758 school board of the special municipal separate school district,
759 the vacancy shall be filled, depending upon the length of the
760 unexpired term of the vacated office, in the manner provided under
761 this subsection.

762 (a) If the unexpired term of the vacated office is six
763 (6) months or less, the remaining members of the school board

764 shall appoint, within sixty (60) days after the vacancy occurs, a
765 person to serve the unexpired portion of the term. The appointee
766 shall be selected from the qualified electors of the school board
767 member district in which the vacancy occurs. The chairman of the
768 school board shall certify to the Secretary of State the fact of
769 the appointment, and the Governor shall commission the person
770 appointed.

771 (b) If the unexpired term of the vacated office is
772 greater than six (6) months, an election shall be held to fill the
773 vacancy. The school board shall certify in writing the fact of
774 the vacancy to the governing authority of the municipality. At
775 the next regular meeting of the governing authority after its
776 receipt of certification of the vacancy from the school board, the
777 governing authority shall make and enter on its minutes an order
778 for an election to be held in the school board member district in
779 which the vacancy exists and shall fix the date upon which the
780 election shall be held, which date shall not be less than thirty
781 (30) days nor more than forty-five (45) days after the date upon
782 which the order is adopted.

783 The municipal clerk shall publish notice of the election in a
784 newspaper of general circulation within the municipality once each
785 week for three (3) successive weeks preceding the date of the
786 election. The first notice must be published at least thirty (30)
787 days before the date of the election. Notice also shall be given
788 by the school board by posting a copy of the notice at three (3)
789 public places in the school board member district in which the
790 vacancy exists and at the administrative offices of the school
791 board not less than twenty-one (21) days before the date of the
792 election.

793 Candidates for the vacated office shall file with the
794 municipal clerk, not less than ten (10) days before the date of
795 the election, a petition of nomination signed by at least fifty
796 (50) or twenty percent (20%) of the qualified electors of the

797 school board member district, whichever is less. The election
798 shall be held, as far as practicable, in the same manner as
799 general elections are conducted under subsection (3) of this
800 section. The candidate who receives a majority of the votes cast
801 by the qualified electors in the school board member district
802 shall be elected. However, if no candidate receives a majority of
803 the votes, a runoff election shall be held two (2) weeks after the
804 election. The names of the candidate receiving the highest number
805 of votes and the candidate, or candidates in the event of a tie,
806 receiving the next highest vote for the office shall be placed on
807 the ballot in the runoff election. The person receiving the
808 highest number of votes cast by the qualified electors in the
809 runoff election shall be elected. The clerk of the municipal
810 election commission shall give a certificate of election to the
811 person elected and shall return to the Secretary of State a copy
812 of the order of holding the election and its results, certified by
813 the municipal clerk. The Governor shall commission the person
814 elected to serve the remainder of the unexpired term.

815 However, if nine (9) days before the date of the election
816 only one (1) person has qualified as a candidate, the governing
817 authority shall dispense with the election, and the remaining
818 members of the school board shall appoint that candidate to fill
819 the unexpired term. If no person has qualified at least nine (9)
820 days before the election, the governing authority shall dispense
821 with the election, and the remaining members of the school board
822 shall appoint a person, selected from the qualified electors of
823 the school board member district in which the vacancy exists, to
824 fill the unexpired term. The chairman of the school board shall
825 certify to the Secretary of State the fact of the appointment, and
826 the Governor shall commission the person appointed.

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 (1) 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 (1) for one (1) year longer, one (1) for two (2)
844 years longer, one (1) for three (3) years longer, and one (1) for
845 four (4) years longer. Upon the expiration of each such original
846 term, each appointment shall be for five (5) years and shall be
847 made by the authority making the original appointment. In case of
848 the occurrence of a vacancy, the authority which made the
849 appointment of the trustee responsible for such vacancy shall
850 appoint a successor to serve the remainder of the term of such
851 trustee.

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

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

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

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

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

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