

By: Senator(s) Harden

To: Education

SENATE BILL NO. 2161

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.