

By: Senator(s) Harden

To: Municipalities;
Elections

SENATE BILL NO. 2296

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 2005; 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 2005, 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 2005, 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. Candidates for the
64 school board of the municipal separate school district shall file
65 with the municipal election commissioners, not more than ninety
66 (90) days and not less than sixty (60) days before the date of the
67 general election, a petition of nomination signed by at least
68 fifty (50) or twenty percent (20%) of the qualified electors of
69 the school board member district, whichever is less. The name of
70 each qualified candidate shall be placed on the ballot. The

71 candidate in each school board member district who receives a
72 majority of the votes cast by the qualified electors in that
73 district shall be elected. However, if no candidate receives a
74 majority of the votes, a runoff election shall be held two (2)
75 weeks after the election. The names of the candidate receiving
76 the highest number of votes and the candidate, or candidates in
77 the event of a tie, receiving the next highest vote for the office
78 shall be placed on the ballot in the runoff election. The person
79 receiving the highest number of votes cast by the qualified
80 electors in the runoff election shall be elected. All persons
81 elected to serve on the school board of the municipal separate
82 school district shall take office on the first Monday of July next
83 following the date of their election and shall serve for a term of
84 four (4) years.

85 (4) Notwithstanding any other provision of law to the
86 contrary, in each municipal separate school district, the terms of
87 all school board members, whether appointed or elected, existing
88 on the first Tuesday after the first Monday in June 2005 shall
89 expire when their duly elected successors take office on the first
90 Monday of July 2005.

91 (5) Whenever there is a vacancy in the membership of the
92 school board of the municipal separate school district, the
93 vacancy shall be filled, depending upon the length of the
94 unexpired term of the vacated office, in the manner provided under
95 this subsection.

96 (a) If the unexpired term of the vacated office is six
97 (6) months or less, the remaining members of the school board
98 shall appoint, within sixty (60) days after the vacancy occurs, a
99 person to serve the unexpired portion of the term. The appointee
100 shall be selected from the qualified electors of the school board
101 member district in which the vacancy occurs. The chairman of the
102 school board shall certify to the Secretary of State the fact of

103 the appointment, and the Governor shall commission the person
104 appointed.

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

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

127 Candidates for the vacated office shall file with the
128 municipal clerk, not less than ten (10) days before the date of
129 the election, a petition of nomination signed by at least fifty
130 (50) or twenty percent (20%) of the qualified electors of the
131 school board member district, whichever is less. The election
132 shall be held, as far as practicable, in the same manner as
133 general elections are conducted under subsection (3) of this
134 section. The candidate who receives a majority of the votes cast
135 by the qualified electors in the school board member district

136 shall be elected. However, if no candidate receives a majority of
137 the votes, a runoff election shall be held two (2) weeks after the
138 election. The names of the candidate receiving the highest number
139 of votes and the candidate, or candidates in the event of a tie,
140 receiving the next highest vote for the office shall be placed on
141 the ballot in the runoff election. The person receiving the
142 highest number of votes cast by the qualified electors in the
143 runoff election shall be elected. The clerk of the municipal
144 election commission shall give a certificate of election to the
145 person elected and shall return to the Secretary of State a copy
146 of the order of holding the election and its results, certified by
147 the municipal clerk. The Governor shall commission the person
148 elected to serve the remainder of the unexpired term.

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

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

163 37-7-703. (1) In all * * * special municipal separate
164 school districts, beginning in 2005, * * * the school board * * *
165 of such special municipal separate school district shall be
166 elected in the manner provided in this section * * *.

167 (2) Each member of the school board of the special municipal
168 separate school district shall be elected from a special school

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

196 (3) On the first Tuesday after the first Monday in June
197 2005, and every four (4) years thereafter, an election shall be
198 held in every special municipal separate school district, in the
199 same manner and at the same time as the general municipal
200 elections are held, for the purpose of electing the members of the
201 school board of the special municipal separate school district.

202 Candidates for the school board of the special municipal separate
203 school district shall file with the municipal election
204 commissioners, not more than ninety (90) days and not less than
205 sixty (60) days before the date of the general election, a
206 petition of nomination signed by at least fifty (50) or twenty
207 percent (20%) of the qualified electors of the school board member
208 district, whichever is less. The name of each qualified candidate
209 shall be placed on the ballot. The candidate in each school board
210 member district who receives a majority of the votes cast by the
211 qualified electors in that district shall be elected. However, if
212 no candidate receives a majority of the votes, a runoff election
213 shall be held two (2) weeks after the election. The names of the
214 candidate receiving the highest number of votes and the candidate,
215 or candidates in the event of a tie, receiving the next highest
216 vote for the office shall be placed on the ballot in the runoff
217 election. The person receiving the highest number of votes cast
218 by the qualified electors in the runoff election shall be elected.
219 All persons elected to serve on the school board of the special
220 municipal separate school district shall take office on the first
221 Monday of July next following the date of their election and shall
222 serve for a term of four (4) years.

223 (4) Notwithstanding any other provision of law to the
224 contrary, in each special municipal separate school district, the
225 terms of all school board members, whether appointed or elected,
226 existing on the first Tuesday after the first Monday in June 2005
227 shall expire when their duly elected successors take office on the
228 first Monday of July 2005.

229 (5) Whenever there is a vacancy in the membership of the
230 school board of the special municipal separate school district,
231 the vacancy shall be filled, depending upon the length of the
232 unexpired term of the vacated office, in the manner provided under
233 this subsection.

234 (a) If the unexpired term of the vacated office is six
235 (6) months or less, the remaining members of the school board
236 shall appoint, within sixty (60) days after the vacancy occurs, a
237 person to serve the unexpired portion of the term. The appointee
238 shall be selected from the qualified electors of the school board
239 member district in which the vacancy occurs. The chairman of the
240 school board shall certify to the Secretary of State the fact of
241 the appointment, and the Governor shall commission the person
242 appointed.

243 (b) If the unexpired term of the vacated office is
244 greater than six (6) months, an election shall be held to fill the
245 vacancy. The school board shall certify in writing the fact of
246 the vacancy to the governing authority of the municipality. At
247 the next regular meeting of the governing authority after its
248 receipt of certification of the vacancy from the school board, the
249 governing authority shall make and enter on its minutes an order
250 for an election to be held in the school board member district in
251 which the vacancy exists and shall fix the date upon which the
252 election shall be held, which date shall not be less than thirty
253 (30) days nor more than forty-five (45) days after the date upon
254 which the order is adopted.

255 The municipal clerk shall publish notice of the election in a
256 newspaper of general circulation within the municipality once each
257 week for three (3) successive weeks preceding the date of the
258 election. The first notice must be published at least thirty (30)
259 days before the date of the election. Notice also shall be given
260 by the school board by posting a copy of the notice at three (3)
261 public places in the school board member district in which the
262 vacancy exists and at the administrative offices of the school
263 board not less than twenty-one (21) days before the date of the
264 election.

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

267 the election, a petition of nomination signed by at least fifty
268 (50) or twenty percent (20%) of the qualified electors of the
269 school board member district, whichever is less. The election
270 shall be held, as far as practicable, in the same manner as
271 general elections are conducted under subsection (3) of this
272 section. The candidate who receives a majority of the votes cast
273 by the qualified electors in the school board member district
274 shall be elected. However, if no candidate receives a majority of
275 the votes, a runoff election shall be held two (2) weeks after the
276 election. The names of the candidate receiving the highest number
277 of votes and the candidate, or candidates in the event of a tie,
278 receiving the next highest vote for the office shall be placed on
279 the ballot in the runoff election. The person receiving the
280 highest number of votes cast by the qualified electors in the
281 runoff election shall be elected. The clerk of the municipal
282 election commission shall give a certificate of election to the
283 person elected and shall return to the Secretary of State a copy
284 of the order of holding the election and its results, certified by
285 the municipal clerk. The Governor shall commission the person
286 elected to serve the remainder of the unexpired term.

287 However, if nine (9) days before the date of the election
288 only one (1) person has qualified as a candidate, the governing
289 authority shall dispense with the election, and the remaining
290 members of the school board shall appoint that candidate to fill
291 the unexpired term. If no person has qualified at least nine (9)
292 days before the election, the governing authority shall dispense
293 with the election, and the remaining members of the school board
294 shall appoint a person, selected from the qualified electors of
295 the school board member district in which the vacancy exists, to
296 fill the unexpired term. The chairman of the school board shall
297 certify to the Secretary of State the fact of the appointment, and
298 the Governor shall commission the person appointed.

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

301 37-7-201. In order for a person to be eligible to hold the
302 office of school board member of any school district, such person
303 must be a bona fide resident and a qualified elector of * * * the
304 school board member district entitled to such representation on
305 the school board.

306 **SECTION 4.** Section 37-7-204, Mississippi Code of 1972, which
307 provides for the appointment of interim board members to fill
308 certain vacancies on the school boards of countywide municipal
309 separate school districts, shall stand repealed from and after
310 January 1, 2005.

311 **SECTION 5.** Sections 37-7-209, 37-7-211, 37-7-213, 37-7-215,
312 37-7-217 and 37-7-219, Mississippi Code of 1972, which provide
313 certain methods for electing trustees from added territory of
314 municipal separate school districts, shall stand repealed from and
315 after January 1, 2005.

316 **SECTION 6.** Sections 37-7-705, 37-7-707, 37-7-709, 37-7-711,
317 37-7-713, 37-7-715 and 37-7-717, Mississippi Code of 1972, which
318 provide various methods for selecting trustees of special
319 municipal separate school districts, shall stand repealed from and
320 after January 1, 2005.

321 **SECTION 7.** The Attorney General of the State of Mississippi
322 shall submit this act, immediately upon approval by the Governor,
323 or upon approval by the Legislature subsequent to a veto, to the
324 Attorney General of the United States or to the United States
325 District Court for the District of Columbia in accordance with the
326 provisions of the Voting Rights Act of 1965, as amended and
327 extended.

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