

By: Representative Formby

To: Municipalities;  
County Affairs

## HOUSE BILL NO. 88

1 AN ACT TO AMEND SECTION 21-1-27, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE FOR AN ELECTION ON THE QUESTION OF MUNICIPAL ANNEXATION IN  
3 THE TERRITORY PROPOSED TO BE ANNEXED WHEN THE GOVERNING  
4 AUTHORITIES OF A MUNICIPALITY DESIRE TO ENLARGE ITS BOUNDARIES; TO  
5 AMEND SECTIONS 21-1-29, 21-1-31, 21-1-33, 21-1-35, 21-1-37 AND  
6 21-1-39, MISSISSIPPI CODE OF 1972, TO REMOVE THE QUESTION OF  
7 MUNICIPAL ANNEXATION FROM THE CHANCERY COURT; AND FOR RELATED  
8 PURPOSES.

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

10 SECTION 1. Section 21-1-27, Mississippi Code of 1972, is  
11 amended as follows:

12 21-1-27. (1) The limits and boundaries of existing cities,  
13 towns and villages shall remain as now established until altered in  
14 the manner hereinafter provided. When any municipality shall desire  
15 to enlarge or contract its boundaries \* \* \* by adding to its  
16 boundaries adjacent unincorporated territory or excluding from its  
17 boundaries any part of the incorporated territory of the  
18 municipality, the governing authorities of the municipality shall  
19 pass an ordinance defining with certainty the territory proposed to  
20 be included in or excluded from the corporate limits, and also  
21 defining the entire boundary as changed. In the event the  
22 municipality desires to enlarge the boundaries, the ordinance shall  
23 in general terms describe the proposed improvements to be made in  
24 the annexed territory, the manner and extent of the improvements,  
25 and the approximate time within which the improvements are to be  
26 made; the ordinance also shall \* \* \* contain a statement of the  
27 municipal or public services which the municipality proposes to  
28 render in the annexed territory. In the event the municipality  
29 shall desire to contract its boundaries, the ordinance shall contain

30 a statement of the reasons for the contraction and a statement  
31 showing how the public convenience and necessity would be served by  
32 the contraction.

33 (2) If twenty percent (20%) of the qualified electors residing  
34 in the territory proposed to be annexed by a municipality petition  
35 the governing body of the municipality for an election on the  
36 question of the proposed annexation within sixty (60) days after  
37 public notice of the adoption of the annexation ordinance, the board  
38 of supervisors of the county or counties in which the territory  
39 proposed to be annexed is located shall hold an election in the  
40 territory on the question of the proposed annexation. The election  
41 shall be held within sixty (60) days after certification of the  
42 petition by the municipal clerk. Notice of the election shall be  
43 published in a newspaper having a general circulation in the  
44 territory proposed to be annexed once a week for three (3)  
45 consecutive weeks before the election date, and the first  
46 publication shall be made not less than twenty-one (21) days before  
47 the election date. The election shall be held in the same manner as  
48 are other county elections. If fewer than sixty percent (60%) of  
49 the qualified electors voting in the election vote against the  
50 ordinance, the ordinance shall be approved. If sixty percent (60%)  
51 or more of the qualified electors voting in the election vote  
52 against the ordinance, the ordinance shall not be approved. If  
53 approved in the election, the ordinance shall become effective ten  
54 (10) days after the date of the final determination of the results  
55 of the election or on a later date which is specified in the  
56 ordinance. If a petition for an election is not filed, the  
57 ordinance shall become effective sixty (60) days after public notice  
58 of the adoption of the ordinance or on a later date which is  
59 specified in the ordinance. If the ordinance is not approved in the  
60 election, the municipality shall not adopt another ordinance  
61 proposing the annexation of any of the same territory for a period  
62 of five (5) years from the date of the election.

63 SECTION 2. Section 21-1-29, Mississippi Code of 1972, is  
64 amended as follows:

65 21-1-29. When any \* \* \* ordinance proposing to contract the  
66 municipal boundaries shall be passed by the municipal authorities,

67 the municipal authorities shall file a petition in the chancery  
68 court of the county in which the municipality is located \* \* \*. The  
69 petition shall recite the fact of the adoption of the ordinance and  
70 shall pray that the \* \* \* contraction of the municipal  
71 boundaries \* \* \* shall be ratified, approved and confirmed by the  
72 court. There shall be attached to the petition, as exhibits  
73 thereto, a certified copy of the ordinance adopted by the municipal  
74 authorities and a map or plat of the municipal boundaries as they  
75 will exist if the \* \* \* contraction becomes effective.

76 SECTION 3. Section 21-1-31, Mississippi Code of 1972, is  
77 amended as follows:

78 21-1-31. Upon the filing of the petition and upon application  
79 therefor by the petitioner, the chancellor shall fix a date certain,  
80 either in termtime or in vacation, when a hearing on the petition  
81 will be held, and notice of the hearing shall be given in the same  
82 manner and for the same length of time as is provided in Section  
83 21-1-15 with regard to the creation of municipal corporations, and  
84 all parties interested in, affected by, or being aggrieved by the  
85 proposed \* \* \* contraction shall have the right to appear at the  
86 hearing and present their objection to the proposed \* \* \*  
87 contraction. \* \* \*

88 SECTION 4. Section 21-1-33, Mississippi Code of 1972, is  
89 amended as follows:

90 21-1-33. If the chancellor finds from the evidence presented  
91 at the hearing that the proposed \* \* \* contraction is reasonable and  
92 is required by the public convenience and necessity, \* \* \* the  
93 chancellor shall enter a decree approving, ratifying and confirming  
94 the proposed \* \* \* contraction, and describing the boundaries of the  
95 municipality as altered. In so doing the chancellor shall have the  
96 right and the power to modify the proposed \* \* \* contraction by  
97 decreasing the territory to be \* \* \* excluded from the municipality.

98 If the chancellor shall find from the evidence that the  
99 proposed \* \* \* contraction \* \* \* is unreasonable and is not required

100 by the public convenience and necessity, then he shall enter a  
101 decree denying the contraction. In any event, the decree of the  
102 chancellor shall become effective after the passage of ten (10) days  
103 from the date of the decree or, in event an appeal is taken  
104 therefrom, within ten (10) days from the final determination of the  
105 appeal. In any proceeding under this section the burden shall be  
106 upon the municipal authorities to show that the proposed \* \* \*  
107 contraction is reasonable.

108 SECTION 5. Section 21-1-35, Mississippi Code of 1972, is  
109 amended as follows:

110 21-1-35. In the event no objection is made to the petition for  
111 the \* \* \* contraction of the municipal boundaries, the municipality  
112 shall be taxed with all costs of the proceedings. In the event  
113 objection is made, the costs may be taxed in a manner as the  
114 chancellor shall determine to be equitable pursuant to the  
115 Mississippi Rules of Civil Procedure. In the event of an appeal  
116 from the judgment of the chancellor, the costs incurred in the  
117 appeal shall be taxed against the appellant if the judgment be  
118 affirmed, and against the appellee if the judgment be reversed.

119 SECTION 6. Section 21-1-37, Mississippi Code of 1972, is  
120 amended as follows:

121 21-1-37. If the municipality or any other interested person  
122 who was a party to the proceedings in the chancery court be  
123 aggrieved by the decree of the chancellor regarding contraction of  
124 the municipal boundaries, then the municipality or other person may  
125 prosecute an appeal therefrom within the time and in the manner and  
126 with like effect as is provided in Section 21-1-21 in the case of  
127 appeals from the decree of the chancellor with regard to the  
128 creation of a municipal corporation.

129 SECTION 7. Section 21-1-39, Mississippi Code of 1972, is  
130 amended as follows:

131 21-1-39. (1) Whenever the corporate limits of any  
132 municipality shall be \* \* \* contracted as herein provided, the

133 chancery clerk shall, after the expiration of ten (10) days from the  
134 date of the decree if an appeal is not taken therefrom, forward to  
135 the Secretary of State a certified copy of the decree, which shall  
136 be filed in the Office of the Secretary of State and shall remain a  
137 permanent record thereof. In the event an appeal be taken from the  
138 decree and the decree is affirmed, then the certified copy of the  
139 decree shall be forwarded to the Secretary of State within ten (10)  
140 days after receipt of the mandate from the Supreme Court notifying  
141 the clerk of the affirmance.

142 (2) Whenever the corporate limits of any municipality are  
143 enlarged as provided in Section 21-1-27, the governing body of the  
144 municipality, after the annexation ordinance has become effective,  
145 shall forward to the Secretary of State a certified copy of the  
146 ordinance, which shall be filed in the Office of the Secretary of  
147 State and shall remain a permanent record thereof.

148 SECTION 8. Any action on an ordinance proposing the  
149 enlargement of municipal boundaries which is pending before a court  
150 on the effective date of this act as a result of any prior law shall  
151 be withdrawn, and an election as provided in Section 21-1-27 may be  
152 held.

153 SECTION 9. The Attorney General of the State of Mississippi  
154 shall submit this act, immediately upon approval by the Governor, or  
155 upon approval by the Legislature subsequent to a veto, to the  
156 Attorney General of the United States or to the United States  
157 District Court for the District of Columbia in accordance with the  
158 provision of the Voting Rights Act of 1965, as amended and extended.

159 SECTION 10. This act shall take effect and be in force from  
160 and after the date it is effectuated under Section 5 of the Voting  
161 Rights Act of 1965, as amended and extended.