

By: Representative Holland

To: Municipalities;
County Affairs

HOUSE BILL NO. 350

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

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

(2) If twenty percent (20%) of the qualified electors residing in the territory proposed to be annexed by a municipality petition the governing body of the municipality for an election on the question of the proposed annexation within sixty (60) days after public notice of the adoption of the annexation ordinance, the board of supervisors of the county or counties in which the territory proposed to be annexed is located shall hold an election in the territory on the question of the proposed annexation. The election shall be held within sixty (60) days after certification of the petition by the municipal clerk. Notice of the election shall be published in a newspaper having a general circulation in the territory proposed to be annexed once a week for three (3) consecutive weeks before the election date, and the first publication shall be made not less than twenty-one (21) days before the election date. The election shall be held in the same manner as are other county elections. If fewer than sixty percent (60%) of the qualified electors voting in the election vote against the ordinance, the ordinance shall be approved. If sixty percent (60%) or more of the qualified electors voting in the election vote against the ordinance, the ordinance shall not be approved. If approved in the election, the ordinance shall become effective ten (10) days after the date of the final determination of the results of the election or on a later date which is specified in the ordinance. If a petition for an election is not filed, the ordinance shall become effective sixty (60) days after public notice of the adoption of the ordinance or on a later date which is specified in the ordinance. If the ordinance is not approved in the election, the municipality shall not adopt another ordinance proposing the annexation of any of the same territory for a period of five (5) years from the date of the election.

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

21-1-29. When any * * * ordinance proposing to contract the 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

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

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

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

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

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

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

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

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

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

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

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

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