

By: Representative Holland

To: Municipalities;
County Affairs

HOUSE BILL NO. 353

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 BOTH THE MUNICIPALITY AND THE TERRITORY PROPOSED TO BE ANNEXED
4 WHEN THE GOVERNING AUTHORITIES OF A MUNICIPALITY DESIRE TO ENLARGE
5 ITS BOUNDARIES; TO AMEND SECTIONS 21-1-29, 21-1-31, 21-1-33,
6 21-1-35, 21-1-37 AND 21-1-39, MISSISSIPPI CODE OF 1972, TO REMOVE
7 THE QUESTION OF MUNICIPAL ANNEXATION FROM CHANCERY COURT
8 PROCEEDINGS; AND FOR RELATED 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
14 in the manner hereinafter provided. When any municipality shall
15 desire to enlarge or contract its boundaries * * * by adding to
16 its boundaries adjacent unincorporated territory or excluding from
17 its 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
20 to 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 its boundaries, the ordinance
23 shall in general terms describe the proposed improvements to be
24 made in the annexed territory, the manner and extent of the
25 improvements, and the approximate time within which the
26 improvements are to be made; the ordinance also shall * * *
27 contain a statement of the municipal or public services which the
28 municipality proposes to render in the annexed territory. In the
29 event the municipality shall desire to contract its boundaries,

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

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

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

69 21-1-29. When any * * * ordinance proposing to contract the
70 municipal boundaries shall be passed by the municipal authorities,
71 the municipal authorities shall file a petition in the chancery
72 court of the county in which the municipality is located. * * *
73 The petition shall recite the fact of the adoption of the
74 ordinance and shall pray that the * * * contraction of the
75 municipal boundaries * * * shall be ratified, approved and
76 confirmed by the court. There shall be attached to the petition,
77 as exhibits thereto, a certified copy of the ordinance adopted by
78 the municipal authorities and a map or plat of the municipal
79 boundaries as they will exist if the * * * contraction becomes
80 effective.

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

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

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

95 21-1-33. If the chancellor finds from the evidence presented
96 at the hearing that the proposed * * * contraction is reasonable
97 and is required by the public convenience and necessity, * * * the
98 chancellor shall enter a decree approving, ratifying and
99 confirming the proposed * * * contraction, and describing the

100 boundaries of the municipality as altered. In so doing the
101 chancellor shall have the right and the power to modify the
102 proposed * * * contraction by decreasing the territory to be * * *
103 excluded from the municipality * * *. If the chancellor shall
104 find from the evidence that the proposed * * * contraction * * *
105 is unreasonable and is not required by the public convenience and
106 necessity, then he shall enter a decree denying the * * *
107 contraction. In any event, the decree of the chancellor shall
108 become effective after the passage of ten (10) days from the date
109 of the decree or, if an appeal is taken therefrom, within ten (10)
110 days from the final determination of the appeal. In any
111 proceeding under this section the burden shall be upon the
112 municipal authorities to show that the proposed * * * contraction
113 is reasonable.

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

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

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

127 21-1-37. If the municipality or any other interested person
128 who was a party to the proceedings in the chancery court be
129 aggrieved by the decree of the chancellor regarding contraction of
130 the municipal boundaries, then the municipality or other person
131 may prosecute an appeal therefrom within the time and in the
132 manner and with like effect as is provided in Section 21-1-21 in

133 the case of appeals from the decree of the chancellor with regard
134 to the creation of a municipal corporation.

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

137 21-1-39. (1) Whenever the corporate limits of any
138 municipality shall be * * * contracted as herein provided, the
139 chancery clerk shall, after the expiration of ten (10) days from
140 the date of the decree if an appeal is not taken therefrom,
141 forward to the Secretary of State a certified copy of the decree,
142 which shall be filed in the Office of the Secretary of State and
143 shall remain a permanent record thereof. In the event an appeal
144 be taken from the decree and the decree is affirmed, then the
145 certified copy of the decree shall be forwarded to the Secretary
146 of State within ten (10) days after receipt of the mandate from
147 the Supreme Court notifying the clerk of the affirmance.

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

154 SECTION 8. Any action on an ordinance proposing the
155 enlargement of municipal boundaries which is pending before a
156 court on the effective date of this act as a result of any prior
157 law shall be withdrawn, and an election as provided in Section
158 21-1-27 may be held.

159 SECTION 9. The Attorney General of the State of Mississippi
160 is hereby directed to submit this act, immediately upon approval
161 by the Governor, or upon approval by the Legislature subsequent to
162 a veto, to the Attorney General of the United States or to the
163 United States District Court for the District of Columbia in
164 accordance with the provisions of the Voting Rights Act of 1965,
165 as amended and extended.

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