

By: Representative Ellington

To: Municipalities;
County Affairs

HOUSE BILL NO. 483

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 * * * provided in this section. When any municipality
15 shall desire to enlarge or contract its boundaries * * * by adding
16 to its boundaries adjacent unincorporated territory or excluding
17 from 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 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 a majority of the qualified electors
49 voting in the election vote for the ordinance, the ordinance shall
50 be approved. If a majority of the qualified electors voting in the
51 election vote against the ordinance, the ordinance shall not be
52 approved. If approved in the election, the ordinance shall become
53 effective ten (10) days after the date of the final determination of
54 the results of the election or on a later date which is specified in
55 the ordinance. If a petition for an election is not filed, the
56 ordinance shall become effective sixty (60) days after public notice
57 of the adoption of the ordinance or on a later date which is
58 specified in the ordinance. If the ordinance is not approved in the
59 election, the municipality shall not adopt another ordinance
60 proposing the annexation of any of the same territory for a period
61 of five (5) years from the date of the election.

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

64 21-1-29. When any * * * ordinance proposing to contract the
65 municipal boundaries shall be passed by the municipal authorities,
66 the municipal authorities shall file a petition in the chancery

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

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

77 21-1-31. Upon the filing of the petition and upon application
78 therefor by the petitioner, the chancellor shall fix a date certain,
79 either in termtime or in vacation, when a hearing on the petition
80 will be held, and notice of the hearing shall be given in the same
81 manner and for the same length of time as is provided in Section
82 21-1-15 with regard to the creation of municipal corporations, and
83 all parties interested in, affected by, or being aggrieved by the
84 proposed * * * contraction shall have the right to appear at the
85 hearing and present their objection to the proposed * * *
86 contraction. * * *

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

89 21-1-33. If the chancellor finds from the evidence presented
90 at the hearing that the proposed * * * contraction is reasonable and
91 is required by the public convenience and necessity, * * * the
92 chancellor shall enter a decree approving, ratifying and confirming
93 the proposed * * * contraction, and describing the boundaries of the
94 municipality as altered. In so doing the chancellor shall have the
95 right and the power to modify the proposed * * * contraction by
96 decreasing the territory to be * * * excluded from the municipality.

97 If the chancellor shall find from the evidence that the
98 proposed * * * contraction * * * is unreasonable and is not required
99 by the public convenience and necessity, then he shall enter a

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

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

109 21-1-35. In the event no objection is made to the petition for
110 the * * * contraction of the municipal boundaries, the municipality
111 shall be taxed with all costs of the proceedings. In the event
112 objection is made, the costs may be taxed in a manner as the
113 chancellor shall determine to be equitable pursuant to the
114 Mississippi Rules of Civil Procedure. In the event of an appeal
115 from the judgment of the chancellor, the costs incurred in the
116 appeal shall be taxed against the appellant if the judgment be
117 affirmed, and against the appellee if the judgment be reversed.

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

120 21-1-37. If the municipality or any other interested person
121 who was a party to the proceedings in the chancery court be
122 aggrieved by the decree of the chancellor regarding contraction of
123 the municipal boundaries, then the municipality or other person may
124 prosecute an appeal from the chancellor's decree within the time and
125 in the manner and with like effect as is provided in Section 21-1-21
126 in the case of appeals from the decree of the chancellor with regard
127 to the creation of a municipal corporation.

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

130 21-1-39. (1) Whenever the corporate limits of any
131 municipality shall be * * * contracted as herein provided, the
132 chancery clerk shall, after the expiration of ten (10) days from the

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

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

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

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

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