

By: Senator(s) Kirby

To: Municipalities;
Finance

SENATE BILL NO. 2475

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; TO
4 AMEND SECTIONS 21-1-29, 21-1-31, 21-1-33, 21-1-35, 21-1-37 AND
5 21-1-39, MISSISSIPPI CODE OF 1972, TO REMOVE MUNICIPAL ANNEXATION
6 FROM CHANCERY COURT PROCEEDINGS; TO AMEND SECTIONS 21-1-27,
7 21-1-61, 21-33-1 AND 21-33-21, MISSISSIPPI CODE OF 1972, TO
8 PROVIDE THAT A MUNICIPALITY IS PROHIBITED FROM LEVYING AND
9 COLLECTING TAXES IN NEWLY ANNEXED AREAS UNTIL THOSE SERVICES THAT
10 THE MUNICIPALITY PROPOSED TO RENDER TO THE NEWLY ANNEXED AREAS ARE
11 PROVIDED; AND FOR RELATED PURPOSES.

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

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

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

31 annexed territory. The ordinance shall also state that the
32 municipality will not levy or collect taxes within the territory
33 proposed to be annexed until those services that the municipality
34 proposed to render in the ordinance are provided. In the event
35 the municipality shall desire to contract its boundaries, such
36 ordinance shall contain a statement of the reasons for such
37 contraction and a statement showing whereby the public convenience
38 and necessity would be served thereby.

39 (2) If twenty percent (20%) of the qualified electors
40 residing in the territory proposed to be annexed by a municipality
41 petition the governing body of the municipality for an election on
42 the question of the proposed annexation, within sixty (60) days
43 after public notice of the adoption of the annexation ordinance,
44 the board of supervisors of the county or counties in which the
45 municipality and the territory proposed to be annexed are located
46 shall hold separate elections in the municipality and in the
47 territory proposed to be annexed on the question of the proposed
48 annexation. The elections shall be held within sixty (60) days
49 after certification of the petition by the municipal clerk.
50 Notice of the elections shall be published in a newspaper having a
51 general circulation in the county or counties in which the
52 municipality and the territory proposed to be annexed are located
53 once a week for three (3) consecutive weeks prior to the election
54 date, and the first publication shall be made not less than
55 twenty-one (21) days prior to the election date. The elections
56 shall be held in the same manner as are other county elections.
57 The annexation shall not be permitted or approved unless both the
58 electors in the municipality and in the territory proposed to be
59 annexed approve the annexation by majority vote of those electors
60 voting in the election. If fewer than a majority of the qualified
61 electors voting in each election vote against the ordinance, the
62 ordinance shall be approved. If a majority of the qualified
63 electors voting in each election vote against the ordinance, the
64 ordinance shall not be approved. If approved in the elections,
65 the ordinance shall become effective ten (10) days after the date
66 of the final determination of the results of the elections or on
67 such later date specified in the ordinance. If no petition for

68 the elections is filed, the ordinance shall become effective sixty
69 (60) days after public notice of the adoption of the ordinance or
70 on such later date specified in the ordinance. If the ordinance
71 is not approved in the elections, the municipality shall not adopt
72 another ordinance proposing the annexation of any of the same
73 territory for a period of five (5) years from the date of the
74 election.

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

77 21-1-29. When any * * * ordinance proposing to contract the
78 municipal boundaries shall be passed by the municipal authorities,
79 such municipal authorities shall file a petition in the chancery
80 court of the county in which such municipality is located * * *.

81 The petition shall recite the fact of the adoption of such
82 ordinance and shall pray that the * * * contraction of the
83 municipal boundaries * * * shall be ratified, approved and
84 confirmed by the court. There shall be attached to such petition,
85 as exhibits thereto, a certified copy of the ordinance adopted by
86 the municipal authorities and a map or plat of the municipal
87 boundaries as they will exist in event such * * * contraction
88 becomes effective.

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

91 21-1-31. Upon the filing of such petition and upon
92 application therefor by the petitioner, the chancellor shall fix a
93 date certain, either in termtime or in vacation, when a hearing on
94 said petition will be held, and notice thereof shall be given in
95 the same manner and for the same length of time as is provided in
96 Section 21-1-15 with regard to the creation of municipal
97 corporations, and all parties interested in, affected by, or being
98 aggrieved by said proposed * * * contraction shall have the right
99 to appear at such hearing and present their objection to such
100 proposed * * * contraction. * * *

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

103 21-1-33. If the chancellor finds from the evidence presented
104 at such hearing that the proposed * * * contraction is reasonable
105 and is required by the public convenience and necessity * * *, the
106 chancellor shall enter a decree approving, ratifying and
107 confirming the proposed * * * contraction, and describing the
108 boundaries of the municipality as altered. In so doing the
109 chancellor shall have the right and the power to modify the
110 proposed * * * contraction by decreasing the territory to be * * *
111 excluded from such municipality * * *. If the chancellor shall
112 find from the evidence that the proposed * * * contraction * * *
113 is unreasonable and is not required by the public convenience and
114 necessity, then he shall enter a decree denying such * * *
115 contraction. In any event, the decree of the chancellor shall
116 become effective after the passage of ten (10) days from the date
117 thereof or, in event an appeal is taken therefrom, within ten (10)
118 days from the final determination of such appeal. In any
119 proceeding under this section the burden shall be upon the
120 municipal authorities to show that the proposed * * * contraction
121 is reasonable.

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

124 21-1-35. In the event no objection is made to the petition
125 for the * * * contraction of the municipal boundaries, the
126 municipality shall be taxed with all costs of the proceedings. In
127 the event objection is made, such costs may be taxed in such
128 manner as the chancellor shall determine to be equitable pursuant
129 to the Mississippi Rules of Civil Procedure. In the event of an
130 appeal from the judgment of the chancellor, the costs incurred in
131 the appeal shall be taxed against the appellant if the judgment be
132 affirmed, and against the appellee if the judgment be reversed.

133 SECTION 6. Section 21-1-37, Mississippi Code of 1972, is

134 amended as follows:

135 21-1-37. If the municipality or any other interested person
136 who was a party to the proceedings in the chancery court be
137 aggrieved by the decree of the chancellor regarding contraction of
138 the municipal boundaries, then such municipality or other person
139 may prosecute an appeal therefrom within the time and in the
140 manner and with like effect as is provided in Section 21-1-21 in
141 the case of appeals from the decree of the chancellor with regard
142 to the creation of a municipal corporation.

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

145 21-1-39. (1) Whenever the corporate limits of any
146 municipality shall be * * * contracted as herein provided, the
147 chancery clerk shall, after the expiration of ten (10) days from
148 the date of such decree if no appeal be taken therefrom, forward
149 to the Secretary of State a certified copy of such decree, which
150 shall be filed in the Office of the Secretary of State and shall
151 remain a permanent record thereof. In the event an appeal be
152 taken from such decree and such decree is affirmed, then the
153 certified copy thereof shall be forwarded to the Secretary of
154 State within ten (10) days after receipt of the mandate from the
155 Supreme Court notifying the clerk of such affirmance.

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

162 SECTION 8. Section 21-1-61, Mississippi Code of 1972, is
163 amended as follows:

164 21-1-61. In all cases where a municipality is created * * *
165 under the provisions of this chapter, the property included within
166 the municipal boundaries by such creation * * * shall become

167 liable for and subject to municipal ad valorem taxation on the tax
168 lien date next succeeding the effective date of the decree
169 creating * * * such municipality. In all cases where the limits
170 of an existing municipality are enlarged through annexation of an
171 adjoining territory under the provisions of this chapter, the
172 property included within the municipal boundaries by the
173 enlargement will not become liable for and subject to municipal ad
174 valorem taxation until the services which the municipality
175 proposed to provide in the ordinance are provided.

176 SECTION 9. Section 21-33-1, Mississippi Code of 1972, is
177 amended as follows:

178 21-33-1. Except as provided in Section 21-1-61, all lands
179 and other taxable property subject to assessment, held by any
180 person within the municipality, or in added territory, on the
181 first day of January, shall be assessed, and ad valorem taxes
182 thereon levied and collected for the ensuing year, excepting motor
183 vehicles as defined by the "Motor Vehicle Ad Valorem Tax Law of
184 1958," Sections 27-51-1 through 27-51-49, Mississippi Code of
185 1972.

186 SECTION 10. Section 21-33-21, Mississippi Code of 1972, is
187 amended as follows:

188 21-33-21. After the services that the municipality proposed
189 to render in the ordinance are provided within the added territory
190 as required under Section 21-1-61, the assessor shall, in the same
191 manner and at the same time as municipal assessments are made,
192 make an assessment of all taxable property in any added territory,
193 and make the same a part of the assessment roll of the municipal
194 separate school district.

195 SECTION 11. Any action on an ordinance proposing the
196 enlargement of municipal boundaries which is pending before a
197 court on the effective date of this act as a result of any prior
198 law shall be withdrawn, and an election as provided in Section
199 21-1-27 may be held.

200 SECTION 12. The Attorney General of the State of Mississippi
201 is hereby directed to submit this act, immediately upon approval
202 by the Governor, or upon approval by the Legislature subsequent to
203 a veto, to the Attorney General of the United States or to the
204 United States District Court for the District of Columbia in
205 accordance with the provisions of the Voting Rights Act of 1965,
206 as amended and extended.

207 SECTION 13. This act shall take effect and be in force from
208 and after the date it is effectuated under Section 5 of the Voting
209 Rights Act of 1965, as amended and extended.