

By: Hamilton, Fillingane, Lott

To: Municipalities;
County Affairs

HOUSE BILL NO. 168

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 * * *
15 desires 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. If the municipality
22 desires to enlarge its boundaries, the ordinance shall in general
23 terms describe the proposed improvements to be made in the annexed
24 territory, the manner and extent of the improvements, and the
25 approximate time within which the improvements are to be made; the
26 ordinance also shall * * * contain a statement of the municipal or
27 public services that the municipality proposes to render in the
28 annexed territory. If the municipality * * * desires to contract
29 its boundaries, the ordinance shall contain a statement of the

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

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

66 SECTION 2. Section 21-1-29, Mississippi Code of 1972, is

67 amended as follows:

68 21-1-29. When any * * * ordinance proposing to contract the
69 municipal boundaries is passed by the municipal authorities, the
70 municipal authorities shall file a petition in the chancery court
71 of the county in which the municipality is located * * *. The
72 petition shall recite the fact of the adoption of the ordinance
73 and shall pray that the * * * contraction of the municipal
74 boundaries * * * shall be ratified, approved and confirmed by the
75 court. There shall be attached to the petition, as exhibits
76 thereto, a certified copy of the ordinance adopted by the
77 municipal authorities and a map or plat of the municipal
78 boundaries as they will exist if the contraction becomes
79 effective.

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

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

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

94 21-1-33. If the chancellor finds from the evidence presented
95 at the hearing that the proposed * * * contraction is reasonable
96 and is required by the public convenience and necessity, * * * the
97 chancellor shall enter a decree approving, ratifying and
98 confirming the proposed * * * contraction, and describing the
99 boundaries of the municipality as altered. In so doing the

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

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

115 21-1-35. If no objection is made to the petition for
116 the * * * contraction of the municipal boundaries, the
117 municipality shall be taxed with all costs of the proceedings. If
118 objection is made, the costs may be taxed in a manner as the
119 chancellor * * * determines to be equitable under the Mississippi
120 Rules of Civil Procedure. If there is an appeal from the judgment
121 of the chancellor, the costs incurred in the appeal shall be taxed
122 against the appellant if the judgment is affirmed, and against the
123 appellee if the judgment is reversed.

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

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

133 to the creation of a municipal corporation.

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

136 21-1-39. (1) Whenever the corporate limits of any
137 municipality are contracted as herein provided, the chancery clerk
138 shall, after the expiration of ten (10) days from the date of the
139 decree if an appeal is not taken therefrom, forward to the
140 Secretary of State a certified copy of the decree, which shall be
141 filed in the Office of the Secretary of State and shall remain a
142 permanent record thereof. If an appeal is taken from the decree
143 and the decree is affirmed, then the certified copy of the decree
144 shall be forwarded to the Secretary of State within ten (10) days
145 after receipt of the mandate from the Supreme Court notifying the
146 clerk of the affirmance.

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

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

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

165 SECTION 10. This act shall take effect and be in force from

166 and after the date it is effectuated under Section 5 of the Voting
167 Rights Act of 1965, as amended and extended.