

By: Representative Robinson (84th)

To: Municipalities; County
Affairs

HOUSE BILL NO. 411

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
14 in the manner * * * provided in this section. When any
15 municipality * * * desires to enlarge or contract its
16 boundaries * * * by adding to its boundaries adjacent
17 unincorporated territory or excluding from its boundaries any part
18 of the incorporated territory of the municipality, the governing
19 authorities of the municipality shall pass an ordinance defining
20 with certainty the territory proposed to be included in or
21 excluded from the corporate limits, and also defining the entire
22 boundary as changed. If the municipality desires to enlarge its
23 boundaries, the ordinance shall in general terms describe the
24 proposed improvements to be made in the annexed territory, the
25 manner and extent of the improvements, and the approximate time
26 within which the improvements are to be made; the ordinance also
27 shall * * * contain a statement of the municipal or public
28 services which the municipality proposes to render in the annexed
29 territory. If the municipality * * * desires to contract its
30 boundaries, the ordinance shall contain a statement of the reasons



31 for the contraction and a statement showing how the public
32 convenience and 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 board of supervisors of the county or counties in which the
39 territory proposed to be annexed is located shall hold an election
40 in the territory on the question of the proposed annexation. The
41 election shall be held within sixty (60) days after certification
42 of the petition by the municipal clerk. Notice of the election
43 shall be published in a newspaper having a general circulation in
44 the 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
47 before the election date. The election shall be held in the same
48 manner as are other county elections. If a majority of the
49 qualified electors voting in the election vote for the ordinance,
50 the ordinance shall be approved. If a majority of the qualified
51 electors voting in the election vote against the ordinance, the
52 ordinance shall not be approved. If approved in the election, the
53 ordinance shall become effective ten (10) days after the date of
54 the final determination of the results of the election or on a
55 later date that is specified in the ordinance. If a petition for
56 an election is not filed, the ordinance shall become effective
57 sixty (60) days after public notice of the adoption of the
58 ordinance or on a later date that is specified in the ordinance.
59 If the ordinance is not approved in the election, the municipality
60 shall not adopt another ordinance proposing the annexation of any
61 of the same territory for a period of five (5) years from the date
62 of the election.



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

65 21-1-29. When any * * * ordinance proposing to contract the
66 municipal boundaries is passed by the municipal authorities, the
67 municipal authorities shall file a petition in the chancery court
68 of the county in which the municipality is located * * *. The
69 petition shall recite the fact of the adoption of the ordinance
70 and shall request that the * * * contraction of the municipal
71 boundaries * * * will 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
74 municipal authorities and a map or plat of the municipal
75 boundaries as they will exist if the * * * contraction becomes
76 effective.

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

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

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

91 21-1-33. If the chancellor finds from the evidence presented
92 at the hearing that the proposed * * * contraction is reasonable
93 and is required by the public convenience and necessity, * * * the
94 chancellor shall enter a decree approving, ratifying and
95 confirming the proposed * * * contraction, and describing the



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

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

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

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

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



128 Section 21-1-21 in the case of appeals from the decree of the
129 chancellor with regard to the creation of a municipal corporation.

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

132 21-1-39. (1) Whenever the corporate limits of any
133 municipality are * * * contracted as * * * provided in the
134 preceding sections, the chancery clerk shall, after the expiration
135 of ten (10) days from the date of the decree if an appeal is not
136 taken from the decree, forward to the Secretary of State a
137 certified copy of the decree, which shall be filed in the Office
138 of the Secretary of State and shall remain a permanent record
139 thereof. If an appeal is taken from the decree and the decree is
140 affirmed, then the certified copy of the decree shall be forwarded
141 to the Secretary of State within ten (10) days after receipt of
142 the mandate from the Supreme Court notifying the clerk of the
143 affirmance.

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

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

155 SECTION 9. The Attorney General of the State of Mississippi
156 shall submit this act, immediately upon approval by the Governor,
157 or upon approval by the Legislature subsequent to a veto, to the
158 Attorney General of the United States or to the United States
159 District Court for the District of Columbia in accordance with the



160 provision of the Voting Rights Act of 1965, as amended and
161 extended.

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

