

By: Representatives Brown, Fillingane

To: Judiciary A

HOUSE BILL NO. 649

1 AN ACT TO AMEND SECTIONS 21-1-17, 21-1-33 AND 21-1-47,
2 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT NO CHANCELLOR MAY HEAR
3 AN ANNEXATION OR INCORPORATION CASE IF HIS JUDICIAL DISTRICT
4 OVERLAPS THE AREA TO BE ANNEXED OR INCORPORATED; AND FOR RELATED
5 PURPOSES.

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

7 **SECTION 1.** Section 21-1-17, Mississippi Code of 1972, is
8 amended as follows:

9 21-1-17. At the time fixed, the chancellor shall proceed to
10 hear all evidence offered in support of said petition, together
11 with all objections, if any, that may be presented touching or
12 bearing upon the question of whether or not the proposed
13 incorporation is reasonable and is required by the public
14 convenience and necessity. The chancellor shall have the power,
15 however, to grant such reasonable continuances as justice may
16 require. If the chancellor finds from the evidence that the
17 proposed incorporation is reasonable and is required by the public
18 convenience and necessity, then he shall enter a decree declaring
19 such municipal corporation to be created as requested in such
20 petition, which decree shall give an accurate description of the
21 territory included in such municipal corporation, shall classify
22 such municipal corporation according to law, and shall set forth
23 the names of the persons which the petitioners desire as officers
24 of such municipality. The chancellor shall have the power,
25 however, in granting any such incorporation to grant same in whole
26 or in part by modifying or decreasing the territory to be included
27 within such municipal corporation. If the chancellor finds from
28 the evidence that the proposed incorporation is not reasonable and



29 is not required by the public necessity and convenience, then a
30 decree shall be entered denying such incorporation. Whenever any
31 municipal corporation shall be created as herein provided, a map
32 or plat of the boundaries of such municipal corporation shall be
33 filed with the chancery clerk and shall be recorded by him in the
34 official plat book of the county. The decree of the chancellor,
35 either creating or denying such incorporation, shall become
36 effective after the passage of ten (10) days from the date of such
37 decree, unless an appeal be taken therefrom as is provided in
38 Section 21-1-21. No chancellor may hear an incorporation case if
39 his judicial district overlaps the area to be incorporated.

40 **SECTION 2.** Section 21-1-33, Mississippi Code of 1972, is
41 amended as follows:

42 21-1-33. If the chancellor finds from the evidence presented
43 at such hearing that the proposed enlargement or contraction is
44 reasonable and is required by the public convenience and necessity
45 and, in the event of an enlargement of a municipality, that
46 reasonable public and municipal services will be rendered in the
47 annexed territory within a reasonable time, the chancellor shall
48 enter a decree approving, ratifying and confirming the proposed
49 enlargement or contraction, and describing the boundaries of the
50 municipality as altered. In so doing the chancellor shall have
51 the right and the power to modify the proposed enlargement or
52 contraction by decreasing the territory to be included in or
53 excluded from such municipality, as the case may be. If the
54 chancellor shall find from the evidence that the proposed
55 enlargement or contraction, as the case may be, is unreasonable
56 and is not required by the public convenience and necessity, then
57 he shall enter a decree denying such enlargement or contraction.
58 In any event, the decree of the chancellor shall become effective
59 after the passage of ten days from the date thereof or, in event
60 an appeal is taken therefrom, within ten (10) days from the final
61 determination of such appeal. In any proceeding under this



62 section the burden shall be upon the municipal authorities to show
63 that the proposed enlargement or contraction is reasonable. No
64 chancellor may hear an enlargement or contraction case if his
65 judicial district overlaps the area to be enlarged or contracted.

66 **SECTION 3.** Section 21-1-47, Mississippi Code of 1972, is
67 amended as follows:

68 21-1-47. Upon the filing of such a petition, all of the
69 proceedings of this chapter with regard to proceedings in the
70 chancery court upon petitions for the creation, enlargement and
71 contraction of municipalities shall apply in like manner thereto.
72 Notice of the filing of such petition and the time for the hearing
73 shall be given in the manner and for the length of time as is
74 required in cases of proceedings for the creation, enlargement or
75 contraction of a municipality. Any parties to the proceedings
76 aggrieved by the decree of the chancellor may appeal therefrom in
77 the same manner and within the same time as is provided in cases
78 of decrees on petitions involving the creation, enlargement or
79 contraction of a municipal corporation. In all proceedings under
80 this section, however, the municipal corporation involved shall be
81 made a party to such proceedings and shall be served with process
82 in the manner provided by law at least thirty (30) days prior to
83 the date of the hearing. If the chancellor finds from the
84 evidence that the proposed inclusion or exclusion is reasonable
85 and is required by the public convenience and necessity, then he
86 shall enter a decree declaring the territory in question to be
87 included in or excluded from the municipality, as the case may be,
88 which decree shall contain an adjudication of the boundaries of
89 the municipality as altered. In so doing, the chancellor shall
90 have the right and power to modify the proposed enlargement or
91 contraction by decreasing the territory to be included in or
92 excluded from the municipality, as the case may be. If the
93 chancellor shall find from the evidence that the proposed
94 inclusion or exclusion, as the case may be, is unreasonable and is



95 not required by the public convenience and necessity, then he
96 shall enter a decree denying same. In any event, the decree of
97 the chancellor shall become effective after the passage of ten
98 (10) days from the date thereof or, in the event an appeal is
99 taken therefrom, within ten (10) days from the final determination
100 of such appeal. In all cases where territory is included in or
101 excluded from a municipality under the provisions hereof, a
102 certified copy of the decree of the chancellor shall be sent to
103 the Secretary of State and a map or plat of the boundaries of the
104 municipality as altered shall be filed with the chancery clerk,
105 all as provided in Sections 21-1-39 and 21-1-41. No chancellor
106 may hear an enlargement or contraction case if his judicial
107 district overlaps the area to be enlarged or contracted.

108 **SECTION 4.** This act shall take effect and be in force from
109 and after July 1, 2003.

