

By: Representatives Robinson (84th), Horne

To: Municipalities; County Affairs

HOUSE BILL NO. 397

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 court.  
72 There shall be attached to the petition, as exhibits thereto, a  
73 certified copy of the ordinance adopted by the municipal  
74 authorities and a map or plat of the municipal boundaries as they  
75 will exist if the contraction becomes effective.

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

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

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

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



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

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

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

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

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



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

131           21-1-39. (1) Whenever the corporate limits of any  
132 municipality are contracted as \* \* \* provided in the preceding  
133 sections, the chancery clerk shall, after the expiration of ten  
134 (10) days from the date of the decree if an appeal is not taken  
135 from the decree, forward to the Secretary of State a certified  
136 copy of the decree, which shall be filed in the Office of the  
137 Secretary of State and shall remain a permanent record thereof.  
138 If an appeal is taken from the decree and the decree is affirmed,  
139 then the certified copy of the decree shall be forwarded to the  
140 Secretary of State within ten (10) days after receipt of the  
141 mandate from the Supreme Court notifying the clerk of the  
142 affirmance.

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

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

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



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

