

By: Senator(s) Cuevas

To: Municipalities;  
Judiciary, Division A

SENATE BILL NO. 2357

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 the  
116 \* \* \* contraction of the municipal boundaries, the municipality  
117 shall be taxed with all costs of the proceedings. If objection is  
118 made, the costs may be taxed in a manner as the chancellor \* \* \*  
119 determines to be equitable under the Mississippi Rules of Civil  
120 Procedure. If there is an appeal from the judgment of the  
121 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 shall submit this act, immediately upon approval by the Governor,  
160 or upon approval by the Legislature subsequent to a veto, to the  
161 Attorney General of the United States or to the United States

162 District Court for the District of Columbia in accordance with the  
163 provisions of the Voting Rights Act of 1965, as amended and  
164 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.