

By: Representative Fleming

To: Municipalities

HOUSE BILL NO. 102

1 AN ACT TO AMEND SECTION 21-8-7, MISSISSIPPI CODE OF 1972, TO  
2 AUTHORIZE MUNICIPALITIES THAT HAVE A MAYOR-COUNCIL FORM OF  
3 GOVERNMENT TO INCREASE THE NUMBER OF COUNCILMEN AND WARDS THAT MAY  
4 BE CREATED; AND FOR RELATED PURPOSES.

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

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

8 21-8-7. (1) Each municipality operating under the  
9 mayor-council form of government shall be governed by an elected  
10 council and an elected mayor. Other officers and employees shall  
11 be duly appointed pursuant to this chapter, general law or  
12 ordinance.

13 (2) Except as otherwise provided in subsection (4) of this  
14 section, the mayor and councilmen shall be elected by the voters  
15 of the municipality at a regular municipal election held on the  
16 first Tuesday after the first Monday in June as provided in  
17 Section 21-11-7, and shall serve for a term of four (4) years  
18 beginning on the first Monday of July next following his election.

19 (3) The terms of the initial mayor and councilmen shall  
20 commence at the expiration of the terms of office of the elected  
21 officials of the municipality serving at the time of adoption of  
22 the mayor-council form.

23 (4) (a) The council shall consist of five (5), seven (7),  
24 nine (9) or eleven (11) members. In the event there are five (5)  
25 councilmen, the municipality shall be divided into either five (5)  
26 or four (4) wards. In the event there are seven (7) councilmen,  
27 the municipality shall be divided into either seven (7), six (6)  
28 or five (5) wards. In the event there are nine (9) councilmen,

29 the municipality shall be divided into seven (7) or nine (9)  
30 wards. In the event there are eleven (11) councilmen, the  
31 municipality shall be divided into nine (9) or eleven (11) wards.  
32 If the municipality is divided into fewer wards than it has  
33 councilmen, the other councilman or councilmen shall be elected  
34 from the municipality at large. The total number of councilmen  
35 and the number of councilmen elected from wards shall be  
36 established by the petition or petitions presented pursuant to  
37 Section 21-8-3. One (1) councilman shall be elected from each  
38 ward by the voters of that ward. Councilmen elected to represent  
39 wards must be residents of their wards at the time of  
40 qualification for election, and any councilman who removes his  
41 residence from the municipality or from the ward from which he was  
42 elected shall vacate his office. However, any candidate for  
43 councilman who is properly qualified as a candidate under  
44 applicable law shall be deemed to be qualified as a candidate in  
45 whatever ward he resides if his ward has changed after the council  
46 has redistricted the municipality as provided in subparagraph  
47 (c)(ii) of this subsection (4), and if the wards have been so  
48 changed, any person may qualify as a candidate for councilman,  
49 using his existing residence or by changing his residence, not  
50 less than fifteen (15) days prior to the first party primary or  
51 special party primary, as the case may be, notwithstanding any  
52 other residency or qualification requirements to the contrary.

53 (b) The council or board existing at the time of the  
54 adoption of the mayor-council form of government shall designate  
55 the geographical boundaries of the wards within one hundred twenty  
56 (120) days after the election in which the mayor-council form of  
57 government is selected. If, after the passage of House Bill No.  
58 \_\_\_\_\_, 2005 Regular Session, the council votes to increase the  
59 number of municipal councilmen, then the council, at least six (6)  
60 months before the next regularly scheduled election of municipal  
61 councilmen, by ordinance, shall redistrict the geographical

62 boundaries of the wards. Any subsequent redistricting of the  
63 municipality by ordinance as required by this paragraph (b) shall  
64 not serve as the basis for representation until the next regularly  
65 scheduled election for municipal councilmen. In designating the  
66 geographical boundaries of the wards, each ward shall contain, as  
67 nearly as possible, the population factor obtained by dividing the  
68 municipality's population as shown by the most recent decennial  
69 census by the number of wards into which the municipality is to be  
70 divided.

71 (c) (i) It shall be the mandatory duty of the council  
72 to redistrict the municipality by ordinance, which ordinance may  
73 not be vetoed by the mayor, within six (6) months after the  
74 official publication by the United States of the population of the  
75 municipality as enumerated in each decennial census, and within  
76 six (6) months after the effective date of any expansion of  
77 municipal boundaries; however, if the publication of the most  
78 recent decennial census or effective date of an expansion of the  
79 municipal boundaries occurs six (6) months or more prior to the  
80 first party primary of a general municipal election, then the  
81 council shall redistrict the municipality by ordinance not less  
82 than sixty (60) days prior to such first party primary.

83 (ii) If the publication of the most recent  
84 decennial census occurs less than six (6) months prior to the  
85 first primary of a general municipal election, the election shall  
86 be held with regard to currently defined wards; and reapportioned  
87 wards based on the census shall not serve as the basis for  
88 representation until the next regularly scheduled election in  
89 which council members shall be elected.

90 (d) If annexation of additional territory into the  
91 municipal corporate limits of the municipality shall occur less  
92 than six (6) months prior to the first party primary of a general  
93 municipal election, the council shall, by ordinance adopted within  
94 three (3) days of the effective date of such annexation, assign

95 such annexed territory to an adjacent ward or wards so as to  
96 maintain as nearly as possible substantial equality of population  
97 between wards; any subsequent redistricting of the municipality by  
98 ordinance as required by this chapter shall not serve as the basis  
99 for representation until the next regularly scheduled election for  
100 municipal councilmen.

101 (5) Vacancies occurring in the council shall be filled as  
102 provided in Section 23-15-857.

103 (6) The mayor shall maintain an office at the city hall.  
104 The councilmen shall not maintain individual offices at the city  
105 hall; provided, however, that in municipalities with populations  
106 of one hundred ninety thousand (190,000) and above, councilmen may  
107 have individual offices in the city hall. Clerical work of  
108 councilmen in the performance of the duties of their office shall  
109 be performed by municipal employees or at municipal expense, and  
110 councilmen shall be reimbursed for the reasonable expenses  
111 incurred in the performance of the duties of their office.

112 **SECTION 2.** The Attorney General of the State of Mississippi  
113 shall submit this act, immediately upon approval by the Governor,  
114 or upon approval by the Legislature subsequent to a veto, to the  
115 Attorney General of the United States or to the United States  
116 District Court for the District of Columbia in accordance with the  
117 provisions of the Voting Rights Act of 1965, as amended and  
118 extended.

119 **SECTION 3.** This act shall take effect and be in force from  
120 and after the date it is effectuated under Section 5 of the Voting  
121 Rights Act of 1965, as amended and extended.