

By: Representative Formby

To: Municipalities;
Apportionment and Elections

HOUSE BILL NO. 640

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 CHANCERY COURT PROCEEDINGS; AND FOR
8 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 the 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 board of supervisors of the county or counties in which the
38 territory proposed to be annexed is located shall hold an election
39 in the territory on the question of the proposed annexation. The
40 election shall be held within sixty (60) days after certification
41 of the petition by the municipal clerk. Notice of the election
42 shall be published once a week for three (3) consecutive weeks
43 before the election date in a newspaper having a general
44 circulation in the territory proposed to be annexed. The first
45 publication shall be made not less than twenty-one (21) days
46 before the election date. The election shall be held in the same
47 manner as are other county elections. If fewer than sixty percent
48 (60%) of the qualified electors voting in the election vote
49 against the ordinance, the ordinance shall be approved. If sixty
50 percent (60%) or more of the qualified electors voting in the
51 election vote against the ordinance, the ordinance shall not be
52 approved. If approved in the election, the ordinance shall become
53 effective ten (10) days after the date of the final determination
54 of the results of the election or on a later date that is
55 specified in the ordinance. If a petition for an election is not
56 filed, the ordinance shall become effective sixty (60) days after
57 public notice of the adoption of the ordinance or on a later date
58 that is specified in the ordinance. If the ordinance is not
59 approved in the election, the municipality shall not adopt another
60 ordinance proposing the annexation of any of the same territory
61 for a period of five (5) years from the date of the election.

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

64 21-1-29. When any * * * ordinance proposing to contract the
65 municipal boundaries is passed by the municipal authorities, the
66 municipal authorities shall file a petition in the chancery court
67 of the county in which the municipality is located * * *. The
68 petition shall recite the fact of the adoption of the ordinance
69 and shall ask that the * * * contraction of the municipal
70 boundaries * * * shall be ratified, approved and confirmed by the
71 court. There shall be attached to the petition, as exhibits
72 thereto, a certified copy of the ordinance adopted by the
73 municipal authorities and a map or plat of the municipal
74 boundaries as they will exist if the contraction becomes
75 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 shall have the right and the power to modify the
97 proposed * * * contraction by decreasing the territory to be * * *
98 excluded from the municipality * * *. If the chancellor * * *
99 finds from the evidence that the proposed * * * contraction * * *
100 is unreasonable and is not required by the public convenience and
101 necessity, then he shall enter a decree denying the contraction.
102 In any event, the decree of the chancellor shall become effective
103 after the passage of ten (10) days from the date of the decree or,
104 if an appeal is taken therefrom, within ten (10) days from the
105 final determination of the appeal. In any proceeding under this
106 section, the burden shall be upon the municipal authorities to
107 show that the 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 any 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 therefrom within the time and in the
126 manner and with like effect as is provided in Section 21-1-21 in

127 the case of appeals from the decree of the chancellor with regard
128 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 herein provided, the chancery clerk
133 shall, after the expiration of ten (10) days from the date of the
134 decree if an appeal is not taken therefrom, forward to the
135 Secretary of State a certified copy of the decree, which shall be
136 filed in the Office of the Secretary of State and shall remain a
137 permanent record thereof. If an appeal is taken from the decree
138 and the decree is affirmed, then the certified copy of the decree
139 shall be forwarded to the Secretary of State within ten (10) days
140 after receipt of the mandate from the Supreme Court notifying the
141 clerk of the affirmance.

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

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

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

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