

By: Representative Hamilton (109th)

To: Municipalities;  
Apportionment and Elections

## HOUSE BILL NO. 16

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 term time or in vacation, when a hearing  
85 on 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 contraction.  
106 In any event, the decree of the chancellor shall become effective  
107 after the passage of ten (10) days from the date of the decree or,  
108 if an appeal is taken therefrom, within ten (10) days from the  
109 final determination of the appeal. In any proceeding under this  
110 section, the burden shall be upon the municipal authorities to  
111 show that the proposed \* \* \* contraction is reasonable.

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

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

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

125 21-1-37. If the municipality or any other interested person  
126 who was a party to the proceedings in the chancery court be  
127 aggrieved by the decree of the chancellor regarding contraction of  
128 the municipal boundaries, then the municipality or other person

129 may prosecute an appeal therefrom within the time and in the  
130 manner and with like effect as is provided in Section 21-1-21 in  
131 the case of appeals from the decree of the chancellor with regard  
132 to the creation of a municipal corporation.

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

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

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

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

157         **SECTION 9.** The Attorney General of the State of Mississippi  
158 shall submit this act, immediately upon approval by the Governor,  
159 or upon approval by the Legislature subsequent to a veto, to the  
160 Attorney General of the United States or to the United States  
161 District Court for the District of Columbia in accordance with the

162 provisions of the Voting Rights Act of 1965, as amended and  
163 extended.

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