

By: Representatives Faulkner, Jackson,  
Sykes, Williams-Barnes

To: Municipalities

HOUSE BILL NO. 951

1 AN ACT TO AMEND SECTION 21-3-5, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT THE GOVERNING AUTHORITIES OF CODE-CHARTER  
3 MUNICIPALITIES MAY DELEGATE THE POWER AND AUTHORITY TO HANDLE  
4 PERSONNEL ACTIONS TO THE MAYOR, CHIEF ADMINISTRATIVE OFFICER OR  
5 DEPARTMENT HEADS; TO BRING FORWARD SECTIONS 21-3-15 AND 21-3-25,  
6 MISSISSIPPI CODE OF 1972, FOR PURPOSES OF POSSIBLE AMENDMENT; AND  
7 FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 21-3-5, Mississippi Code of 1972, is  
10 amended as follows:

11 21-3-5. (1) Except as provided in subsection (2) of this  
12 section, from and after the expiration of the terms of office of  
13 present municipal officers, the mayor and board of aldermen of all  
14 municipalities operating under this chapter shall have the power  
15 and authority to appoint a street commissioner, and such other  
16 officers and employees as may be necessary, and to prescribe the  
17 duties and fix the compensation of all such officers and  
18 employees. Except as provided in subsection (2) of this section,  
19 all officers and employees so appointed shall hold office at the  
20 pleasure of the governing authorities and may be discharged by



21 such governing authorities at any time, either with or without  
22 cause. The governing authorities of municipalities shall have the  
23 power and authority, in their discretion, to appoint the same  
24 person to any two (2) or more of the appointive offices, and in a  
25 municipality having a population of less than fifteen thousand  
26 (15,000), according to the latest available federal census, a  
27 member of the board of aldermen may be appointed to the office of  
28 street commissioner. In municipalities not having depositories,  
29 the clerk shall serve as ex officio treasurer. The municipal  
30 governing authorities shall require all officers and employees  
31 handling or having the custody of any public funds of such city to  
32 give bond, with sufficient surety, to be payable, conditioned and  
33 approved as provided by law, in an amount to be determined by the  
34 governing authority (which shall be not less than Fifty Thousand  
35 Dollars (\$50,000.00)), the premium on same to be paid from the  
36 municipal treasury. The terms of office or employment of all  
37 officers and employees so appointed shall expire at the expiration  
38 of the term of office of the governing authorities making the  
39 appointment, unless such officers or employees shall have been  
40 sooner discharged as \* \* \* provided in this section.

41 (2) The governing authorities may delegate the duties to  
42 fire, demote, discipline and suspend municipal employees with or  
43 without pay to the mayor, department heads or the chief  
44 administrative officer. The delegation of these duties shall be  
45 by ordinance, and shall require a two-thirds (2/3) vote of the



46 mayor and board of aldermen. The board of aldermen shall have the  
47 right to review any personnel decision made after the delegation  
48 of duties. Any action taken by the governing authorities to  
49 delegate such duties shall not be adopted within ninety (90) days  
50 prior to any regular general election for the election of  
51 municipal officers. The delegation of duties shall expire at the  
52 expiration of the term of office of the governing authorities  
53 adopting the ordinance.

54       **SECTION 2.** Section 21-3-15, Mississippi Code of 1972, is  
55 brought forward as follows:

56       21-3-15. (1) The mayor shall preside at all meetings of the  
57 board of aldermen, and in case there shall be an equal division,  
58 shall give the deciding vote. The executive power of the  
59 municipality shall be exercised by the mayor, and the mayor shall  
60 have the superintending control of all the officers and affairs of  
61 the municipality, and shall take care that the laws and ordinances  
62 are executed.

63       (2) (a) The legislative power of the municipality shall be  
64 exercised by the board of aldermen by a vote within a legally  
65 called meeting. No member of the board of aldermen shall give  
66 orders to any employee or subordinate of a municipality other than  
67 the alderman's personal staff.

68       (b) Ordinances adopted by the board of aldermen shall  
69 be submitted to the mayor. The mayor shall, within ten (10) days  
70 after receiving any ordinance, either approve the ordinance by



71 affixing his signature thereto, or return it to the board of  
72 aldermen by delivering it to the municipal clerk together with a  
73 written statement setting forth his objections thereto or to any  
74 item or part thereof. No ordinance or any item or part thereof  
75 shall take effect without the mayor's approval, unless the mayor  
76 fails to return an ordinance to the board of aldermen prior to the  
77 next meeting of the board, but no later than fifteen (15) days  
78 after it has been presented to him, or unless the board of  
79 aldermen, upon reconsideration thereof on or after the third day  
80 following its return by the mayor, shall, by a vote of two-thirds  
81 (2/3) of the members of the board, resolve to override the mayor's  
82 veto.

83 (3) The term "ordinance" as used in this section shall be  
84 deemed to include ordinances, resolutions and orders.

85 **SECTION 3.** Section 21-3-25, Mississippi Code of 1972, is  
86 brought forward as follows:

87 21-3-25. (1) Any municipality operating under a "Code  
88 Charter" as provided for in Chapter 3, Title 21, Mississippi Code  
89 of 1972, may through the mayor and board of aldermen, establish  
90 the position of chief administrative officer of the municipality.

91 (2) The establishment of the position of chief  
92 administrative officer shall be by ordinance, and shall require a  
93 two-thirds (2/3) vote of the mayor and board of aldermen. Any  
94 action taken by the governing authorities to establish such office  
95 shall not be adopted within ninety (90) days prior to any regular



96 general election for the election of municipal officers. The  
97 chief administrative officer shall be a full time employee of the  
98 municipality and shall serve at the discretion of the mayor and  
99 board of aldermen. He shall receive such compensation as the  
100 mayor and board of aldermen may determine, and shall be chosen  
101 solely on the basis of experience and administrative  
102 qualifications. The chief administrative officer may hold one (1)  
103 or more other appointive positions in the municipality. No person  
104 elected to the board of aldermen shall be eligible for the office  
105 of chief administrative officer during the term for which such  
106 person was elected.

107 (3) The chief administrative officer shall have such  
108 administrative duties and functions as shall be delegated to him  
109 by the mayor and board of aldermen.

110 (4) Following the adoption of an ordinance pursuant to this  
111 section, the position of chief administrative officer shall not be  
112 established until after the next general municipal election, at  
113 which time the first chief administrative officer will be  
114 appointed.

115 (5) Members of the board of aldermen shall have no  
116 administrative powers or duties which are delegated by ordinance  
117 to the chief administrative officer.

118 **SECTION 4.** This act shall take effect and be in force from  
119 and after July 1, 2018.

