

By: Representative Horne

To: Municipalities

HOUSE BILL NO. 1502

1 AN ACT TO AMEND SECTION 21-1-27, MISSISSIPPI CODE OF 1972, TO
2 REQUIRE THAT AN ELECTION BE HELD IN ANY PART OF A COUNTY WHICH IS
3 THE SUBJECT OF AN ANNEXATION OR REMOVAL ORDINANCE; TO REPEAL
4 SECTION 21-1-29, MISSISSIPPI CODE OF 1972, WHICH REQUIRES AN
5 ENLARGEMENT OR CONTRACTION PETITION TO BE FILED IN CHANCERY COURT;
6 TO AMEND SECTION 21-1-31, MISSISSIPPI CODE OF 1972, TO REQUIRE THE
7 MUNICIPAL AUTHORITIES TO PAY ATTORNEY'S FEES AND ALL COSTS OF
8 COURT WHEN APPEALING THE ELECTION RESULTS; TO AMEND SECTION
9 21-1-33, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE CHANCELLOR
10 MAY CONSIDER ELECTION RESULTS AS EVIDENCE; TO AMEND SECTIONS
11 21-1-35 AND 21-1-43, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE
12 PRECEDING SECTIONS; AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** Section 21-1-27, Mississippi Code of 1972, is
15 amended as follows:

16 21-1-27. (1) The limits and boundaries of existing cities,
17 towns and villages shall remain as now established until altered
18 in the manner * * * provided in this chapter. When any
19 municipality * * * desires to enlarge or contract * * * its
20 boundaries * * * by adding * * * to its boundaries, adjacent
21 unincorporated territory, or excluding * * * from its boundaries
22 any part of the incorporated territory of * * * the municipality,
23 the governing authorities of * * * the municipality shall pass an



24 ordinance defining with certainty the territory proposed to be
25 included in or excluded from the corporate limits, and also
26 defining the entire boundary as changed. * * * If the
27 municipality desires to enlarge * * * its boundaries, * * * the
28 ordinance shall in general terms describe the proposed
29 improvements to be made in the annexed territory, the manner and
30 extent of * * * the improvements, and the approximate time within
31 which such improvements are to be made; such ordinance shall also
32 contain a statement of the municipal or public services * * * that
33 the municipality proposes to render in * * * the annexed
34 territory. * * * If the municipality * * * desires to contract
35 its boundaries, * * * the ordinance shall contain a statement of
36 the reasons for * * * the contraction and a statement
37 showing * * * how the public convenience and necessity would be
38 served thereby.

39 (2) After the passage of the ordinance, the board of
40 supervisors of the county or counties in which the territory
41 proposed to be annexed or removed is located shall hold an
42 election in the territory on the question of the proposed
43 annexation or removal. Only those persons residing in the area to
44 be annexed or removed shall be allowed to vote in the election.
45 The election shall be held within sixty (60) days after passage of
46 the ordinance. Notice of the election shall be published in a
47 newspaper having a general circulation in the territory proposed
48 to be annexed or removed once a week for three (3) consecutive



weeks before the election date, and the first publication shall be
made not less than twenty-one (21) days before the election date.
The election shall be held in the same manner as are other county
elections. The results of the election shall be certified by the
election commissioners of the county and shall be considered as
the final decision on the issue of annexation or removal unless
the governing authorities of such municipality appeal the election
decision to the chancery court of the county in which such
municipality is located.

(* * *3) (a) When any municipality having a population in
excess of forty thousand (40,000) wherein is located a
state-supported university and in which U.S. Highways 49 and 11
intersect and which has boundaries that lie within two (2)
counties desires to enlarge its boundaries by adding adjacent
unincorporated territory after January 1, 2016, the governing
authorities of the municipality shall pass, in addition to the
requirements provided in subsections (1) and (2), an ordinance:

(i) Certifying that more than fifty percent (50%)
of the people who reside in the unincorporated area of the census
block within the territory proposed to be annexed shall be
included in the proposed annexation; or

(ii) Certifying that upon approval of the
annexation, the municipality shall cede any authority to provide
zoning and subdivision regulation to the board of supervisors of
the county in which the territory is located, if fifty percent



(50%) or fewer people who reside in the unincorporated area of the census block within such territory is included in the proposed annexation. If such authority is ceded, as provided under this subparagraph, then the governing authorities of the municipality * * * are authorized to advise the board of supervisors of the county concerning such regulation; however, the ultimate authority regarding the regulation shall lie with the board of supervisors of the county.

This subsection (* * * 3) shall stand repealed from and after July 1, 2019.

(* * * 4) For the purposes of this section, "census block" refers to certain geographic areas as designated by the latest federal decennial census preceding any annexation under this section.

This subsection (* * * 4) shall stand repealed from and after July 1, 2019.

SECTION 2. Section 21-1-29, Mississippi Code of 1972, which provides for an enlargement or contraction petition to be filed in chancery court, is repealed.

SECTION 3. Section 21-1-31, Mississippi Code of 1972, is amended as follows:

21-1-31. Upon * * * appeal by the municipal authorities, to the chancery court, the chancellor shall fix a date certain, either in term time or in vacation, when a hearing on * * * the election results defeating the proposed enlargement or contraction



99 will be held, and notice thereof shall be given in the same manner
100 and for the same length of time as is provided in Section 21-1-15
101 with regard to the creation of municipal corporations, and all
102 parties interested in, affected by, or being aggrieved by * * *
103 the proposed enlargement or contraction shall have the right to
104 appear at such hearing and present their objection to such
105 proposed enlargement or contraction. * * * The municipal
106 authorities shall be required to pay all attorney's fees and all
107 costs involved with the hearing.

108 **SECTION 4.** Section 21-1-33, Mississippi Code of 1972, is
109 amended as follows:

110 21-1-33. (1) If the chancellor finds from the evidence
111 including, but not limited to, the results of any election held
112 under Section 21-1-27, presented at the hearing that the proposed
113 enlargement or contraction is reasonable and is required by the
114 public convenience and necessity and, in the event of an
115 enlargement of a municipality, that reasonable public and
116 municipal services will be rendered in the annexed territory
117 within a reasonable time and that the governing authority of the
118 municipality complied with the provisions of Section 21-1-27, the
119 chancellor * * * may enter a decree approving, ratifying and
120 confirming the proposed enlargement or contraction, and describing
121 the boundaries of the municipality as altered. In so doing the
122 chancellor shall have the right and the power to modify the
123 proposed enlargement or contraction by decreasing the territory to



be included in or excluded from the municipality, as the case may be.

(2) If the chancellor * * * finds from the evidence that the proposed enlargement or contraction, as the case may be, is unreasonable and is not required by the public convenience and necessity, or in the event of an enlargement of a municipality, that the governing authority of the municipality failed to comply with the provisions of Section 21-1-27, then he or she shall enter a decree denying the enlargement or contraction.

(3) In any event, the decree of the chancellor shall become effective after the passage of ten (10) days from the date thereof or, in the event an appeal is taken therefrom, within ten (10) days from the final determination of the appeal. In any proceeding under this section the burden shall be upon the municipal authorities to show that the proposed enlargement or contraction is reasonable.

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

21-1-35. * * * In the event of an appeal from the judgment of the chancellor, the costs incurred in the appeal shall be taxed against the appellant if the judgment be affirmed, and against the appellee if the judgment be reversed.

SECTION 6. Section 21-1-43, Mississippi Code of 1972, is amended as follows:



21-1-43. Any two (2) or more cities or towns being adjacent or situated sufficiently near to each other may combine into and become one (1) municipality in the same manner as is provided for the enlargement or contraction of municipal boundaries. It shall be necessary for the governing authorities of each municipality to adopt the ordinance with regard * * * to the consolidation and an election held in the same manner as is provided in Section 21-1-27 with regard to the enlargement or contraction of municipal boundaries. * * * The ordinance * * * shall state the name that shall be given to the municipality to be formed. In the event of the consolidation of two (2) or more municipalities into one (1) as * * * provided in this section, the decree of the chancellor shall correctly classify the municipality so formed in accordance with the facts, based upon the total population of all of such municipalities as shown by the latest available federal census. When * * * the consolidation shall have become final and operative, all of * * * the municipalities shall be merged into one (1) under the name set forth in the ordinances adopted by the governing authorities of the municipalities so consolidated. The governing authorities of all the municipalities so consolidated shall become members of the governing authority of the municipality so formed until the next regular election, when the proper number of members of the governing authority shall be elected as provided by law, and the mayor or chief executive officer of the largest municipality, according to population,



shall become the mayor or chief executive officer of the municipality so formed. The assessments and levies for ad valorem taxation in force at the time of the consolidation of * * * the municipalities for the territory of each municipality shall be the assessment and levy upon which taxes shall be collected for the then current fiscal year, but in all other respects the existing laws and ordinances of the largest municipality, according to population, shall be operative throughout the enlarged limits.

Nothing in this section shall authorize the combination of two (2) or more villages unless * * * those villages shall have a combined population of five hundred (500) or more, according to the latest available federal census.

SECTION 7. Any action taken on an ordinance proposing the enlargement or contraction of municipal boundaries that is pending before a court on the effective date of this act as a result of any prior law shall be withdrawn and an election as provided in Section 21-1-27 may be held.

SECTION 8. This act shall take effect and be in force from and after July 1, 2018.

