

By: Representative Busby

To: Apportionment and
Elections

HOUSE BILL NO. 711

1 AN ACT TO AMEND SECTION 23-15-171, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT MUNICIPAL PRIMARY ELECTIONS SHALL BE HELD ON THE
3 FIRST TUESDAY AFTER THE FIRST MONDAY OF AUGUST 2021, AND EVERY
4 FOUR YEARS THEREAFTER; TO AMEND SECTION 23-15-173, MISSISSIPPI
5 CODE OF 1972, TO PROVIDE THAT MUNICIPAL GENERAL ELECTIONS SHALL BE
6 HELD ON THE FIRST TUESDAY AFTER THE FIRST MONDAY OF NOVEMBER 2021,
7 AND EVERY FOUR YEARS THEREAFTER; TO AMEND SECTION 23-15-309,
8 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ALL PERSONS DESIRING TO
9 BE CANDIDATES FOR NOMINATION IN MUNICIPAL PRIMARY ELECTIONS SHALL
10 PAY THE FEE BY 5:00 P.M. ON MARCH 1 OF THE YEAR IN WHICH THE
11 PRIMARY ELECTION FOR THE OFFICE IS HELD, BUT THAT NO SUCH
12 ASSESSMENT MAY BE PAID BEFORE JANUARY 1 OF THE YEAR IN WHICH THE
13 PRIMARY ELECTION FOR THE OFFICE IS HELD; TO AMEND SECTIONS 21-5-1,
14 21-5-3, 21-5-13, 21-5-23, 21-7-5, 21-7-7, 21-8-7, 21-8-11,
15 21-9-15, 21-9-17 AND 21-15-1, MISSISSIPPI CODE OF 1972, TO CONFORM
16 TO THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

18 **SECTION 1.** Section 23-15-171, Mississippi Code of 1972, is
19 amended as follows:

20 23-15-171. (1) Municipal primary elections shall be held on
21 the first Tuesday * * * after the first Monday of August 2021, and
22 every four (4) years thereafter, and, in the event a second
23 primary shall be necessary, such second primary shall be
24 held * * * three (3) weeks thereafter. The candidate receiving a
25 majority of the votes cast in the election shall be the party



26 nominee. If no candidate shall receive a majority vote at the
27 election, the two (2) candidates receiving the highest number of
28 votes shall have their names placed on the ballot for the second
29 primary election. The candidate receiving the most votes cast in
30 the second primary election shall be the party nominee. However,
31 if no candidate shall receive a majority vote at the first
32 primary, and there is a tie in the election of those receiving the
33 next highest vote, those candidates receiving the next highest
34 vote and the candidate receiving the highest vote shall have their
35 names placed on the ballot for the second primary election, and
36 whoever receives the most votes cast in the second primary
37 election shall be the party nominee. At the primary election the
38 municipal executive committee shall perform the same duties as are
39 specified by law and performed by members of the county executive
40 committee with regard to state and county primary elections. Each
41 municipal executive committee shall have as many members as there
42 are elective officers of the municipality, and the members of the
43 municipal executive committee of each political party shall be
44 elected in the primary elections held for the nomination of
45 candidates for municipal offices. The provisions of this section
46 shall govern all municipal primary elections as far as applicable,
47 but the officers to prepare the ballots and the poll managers and
48 other officials of the primary election shall be appointed by the
49 municipal executive committee of the party holding the primary,
50 and the returns of such election shall be made to such municipal



51 executive committee. Vacancies in the executive committee shall
52 be filled by it.

53 (2) Provided, however, that in municipalities operating
54 under a special or private charter which fixes a time for holding
55 elections, other than the time fixed by Chapter 491, Laws of 1950,
56 the first primary election shall be held on the first Tuesday, two
57 (2) months before the time for holding the general election, as
58 fixed by the charter, and the second primary election, where
59 necessary, shall be held three (3) weeks after the first primary
60 election, unless the charter of any such municipality provides
61 otherwise, in which event the provisions of the special or private
62 charter shall prevail as to the time of holding such primary
63 elections.

64 (3) All primary elections in municipalities shall be held
65 and conducted in the same manner as is provided by law for state
66 and county primary elections.

67 **SECTION 2.** Section 23-15-173, Mississippi Code of 1972, is
68 amended as follows:

69 23-15-173. (1) A general municipal election shall be held
70 in each city, town or village on the first Tuesday after the first
71 Monday of * * * November 2021, and every four (4) years
72 thereafter, for the election of all municipal officers elected by
73 the people.



(2) All municipal general elections shall be held and conducted in the same manner as is provided by law for state and county general elections.

(3) The provisions of Sections 23-15-171 and 23-15-173, which fix the times to hold primary and general elections, shall not apply to any municipality operating under a special or private charter where the governing board or authority thereof, on or before June 25, 1952, shall have adopted and spread upon its minutes a resolution or ordinance declining to accept the provisions, in which event the primary and general elections shall be held at the time fixed by the charter of the municipality.

SECTION 3. Section 23-15-309, Mississippi Code of 1972, is amended as follows:

23-15-309. (1) Nominations for all municipal officers which are elective shall be made at a primary election, or elections, to be held in the manner prescribed by law. All persons desiring to be candidates for the nomination in the primary elections shall first pay Ten Dollars (\$10.00) to the clerk of the municipality * * * by 5:00 p.m. on March 1 of the year in which the primary election for the office is held; however, no such assessment may be paid before January 1 of the year in which the primary election for the office is held. If * * * March 1 falls on a Sunday or legal holiday, the fees and written statements submitted on the business day immediately following the Sunday or legal holiday shall be accepted.



99 (2) The fee paid pursuant to subsection (1) of this section
100 shall be accompanied by a written statement containing the name
101 and address of the candidate, the party with which he or she is
102 affiliated, the email address of the candidate, if any, and the
103 office for which he or she is a candidate.

104 (3) The clerk shall promptly receipt the payment, stating
105 the office for which the person making the payment is running and
106 the political party with which such person is affiliated. The
107 clerk shall keep an itemized account in detail showing the time
108 and date of the receipt of such payment received by him or her,
109 from whom such payment was received, the party with which such
110 person is affiliated and for what office the person paying the fee
111 is a candidate. No candidate may attempt to qualify with any
112 political party that does not have a duly organized municipal
113 executive committee, and the municipal clerk shall not accept any
114 assessments made pursuant to subsection (1) if the municipal clerk
115 does not have contact information for the secretary of the
116 municipal executive committee for that political party. The clerk
117 shall promptly supply all necessary information and pay over all
118 fees so received to the secretary of the proper municipal
119 executive committee. The funds may be used and disbursed in the
120 same manner as is allowed in Section 23-15-299 in regard to other
121 executive committees.

122 (4) Upon receipt of the above information, the proper
123 municipal executive committee shall then determine, at the time of



124 the qualifying deadline, whether each candidate is a qualified
125 elector of the municipality, and of the ward if the office sought
126 is a ward office, shall determine whether each candidate either
127 meets all other qualifications to hold the office he or she is
128 seeking or presents absolute proof that he or she will, subject to
129 no contingencies, meet all qualifications on or before the date of
130 the general or special election at which he or she could be
131 elected to office. The executive committee shall determine
132 whether the candidate has taken the steps necessary to qualify for
133 more than one (1) office at the election. The committee also
134 shall determine whether any candidate has been convicted of any
135 felony in a court of this state, or has been convicted on or after
136 December 8, 1992, of any offense in another state which is a
137 felony under the laws of this state, or has been convicted of any
138 felony in a federal court on or after December 8, 1992. Excepted
139 from the above are convictions of manslaughter and violations of
140 the United States Internal Revenue Code or any violations of the
141 tax laws of this state unless such offense also involved misuse or
142 abuse of his or her office or money coming into his or her hands
143 by virtue of the office. If the proper municipal executive
144 committee finds that a candidate either (a) does not meet all
145 qualifications to hold the office he or she seeks and fails to
146 provide absolute proof, subject to no contingencies, that he or
147 she will meet the qualifications on or before the date of the
148 general or special election at which he or she could be elected,



or (b) has been convicted of a felony as described in this subsection and not pardoned, then the executive committee shall notify the candidate and give the candidate an opportunity to be heard. The executive committee shall mail notice to the candidate at least three (3) business days before the hearing to the address provided by the candidate on the qualifying forms, and the committee shall attempt to contact the candidate by telephone, email and facsimile if the candidate provided this information on the forms. If the candidate fails to appear at the hearing or to prove he or she meets all qualifications to hold the office subject to no contingencies, then the name of such candidate shall not be placed upon the ballot. If the executive committee determines that the candidate has taken the steps necessary to qualify for more than one (1) office at the election, the action required by Section 23-15-905, shall be taken.

(5) Where there is but one (1) candidate, the proper municipal executive committee when the time has expired within which the names of candidates shall be furnished shall declare such candidate the nominee.

SECTION 4. Section 21-5-1, Mississippi Code of 1972, is amended as follows:

21-5-1. Any city may at any time, upon an election held as hereinafter provided, change the form of government of such city and adopt a commission form of government. It shall be the duty of the governing authorities of any such city to call a special



election on the question of the adoption of the commission form of government upon receipt of a petition signed by at least ten percent (10%) of the qualified electors of such city, praying that an election be held to determine whether or not such city shall abandon its existing form of government and adopt the commission form. Such special election shall be held in such city not less than thirty (30) days, nor more than sixty (60) days, from the date of making such order, but if a general election is to be held in such city within sixty (60) days from the making of such order, then the question of the adoption of the commission form of government shall be submitted at such general election, rather than at a special election. Notice of such election shall be given as required by law, and the same shall be held and conducted as other elections in such city. At such election the propositions to be voted on shall be "FOR THE PRESENT FORM OF GOVERNMENT," and "FOR THE COMMISSION FORM OF GOVERNMENT." Such propositions shall be printed on the ballot and the elector shall vote by placing a cross (X) or check mark (✓) opposite his choice on the proposition. The results of such election shall be certified to the governing authorities of the city by the persons holding such election, and at their next regular meeting the governing authorities shall adjudicate on the minutes of the city whether or not the majority of the votes cast at such election were cast in favor of the commission form of government. If a majority of the votes were so cast in favor of the commission form



of government, then an order shall be entered providing for the election of officers provided for by this chapter at an election to be held on the first Tuesday after the first Monday of * * * November next thereafter. The mayor or chief executive officer of the city shall immediately certify to the Secretary of State that such city has by election adopted the commission form of government, and such certificate shall be recorded in a book kept for that purpose by the Secretary of State. If a majority of the votes cast at such election be in favor of the existing form of government, the governing authorities shall so adjudicate by an order upon their minutes, and another election submitting the question of the adoption of the commission form of government shall not be held for a period of at least four (4) years thereafter.

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

21-5-3. Every city operating under the commission form of government shall be governed by a council, consisting of the mayor and two (2) councilmen (or commissioners), each of whom shall have the right to vote on all questions coming before the council. The terms of office of the governing authorities in every such city, in office at the beginning of the term of office of the mayor and councilmen first elected under the provisions of this chapter shall then immediately cease and terminate. The terms of office of all other officers then in force in such city, whether elected



or appointed, shall cease and terminate as soon as the council shall, by resolution, so declare.

The corporate name of every such city shall be "The City of (name of city)," under which name the council shall exercise and perform all the corporate powers, duties and obligations conferred or imposed on it or the members thereof.

Any city having a population of one hundred thousand (100,000) inhabitants according to the last decennial census and at that time governed by the commission form of government, may at any time, upon an election held as hereinafter provided, increase by two (2) the number of councilmen governing such city; provided that in no event shall the number of councilmen (not including the mayor) be increased to exceed ten (10) members. It shall be the duty of the council to call a special election on the question of the increase in the number of councilmen and upon receipt of a petition signed by at least ten percent (10%) of the qualified electors of such city, praying that an election be held to determine whether or not such city should increase by two (2) the number of councilmen under the commission form, and such special election shall be held in such city not less than thirty (30) days, nor more than sixty (60) days, from the date of making such order; but if a general election is to be held in such city within sixty (60) days from the making of such order, then the question of the increase in number of councilmen shall be submitted at such general election, rather than at a special election. Notice of



249 such election shall be given as required by law, and the same
250 shall be held and conducted as other elections in such city. At
251 such election the propositions to be voted on shall be "FOR THE
252 PRESENT NUMBER OF COUNCILMEN" and "FOR AN INCREASE BY TWO (2) IN
253 THE NUMBER OF COUNCILMEN," and such propositions shall be printed
254 on the ballot and the elector shall vote by placing a cross (X) or
255 check mark (✓) opposite his choice on the proposition. The
256 results of such election shall be certified to the governing
257 authorities of the city by the persons holding such election, and
258 at their next regular meeting the governing authorities shall
259 adjudicate on the minutes of the city whether or not the majority
260 of the votes cast at such election were cast in favor of
261 increasing by two (2) the number of councilmen. If a majority of
262 the votes were so cast in favor of increasing by two (2) the
263 number of councilmen in the commission form of government, then an
264 order shall be entered providing for the election of the two (2)
265 additional councilmen at an election to be held on the first
266 Tuesday after the first Monday of * * * November next thereafter.
267 The mayor of the city shall immediately certify to the Secretary
268 of State that such city has by election determined to be governed
269 by two (2) additional councilmen in the commission form of
270 government and such certificate shall be recorded in a book kept
271 for that purpose by the Secretary of State. If a majority of the
272 votes cast at such election be in favor of retaining the existing
273 number of councilmen, the council shall so adjudicate by an order



upon their minutes, and another election submitting the question of the increasing by two (2) the number of councilmen in the commission form of government shall not be held for a period of at least four (4) years thereafter.

SECTION 6. Section 21-5-13, Mississippi Code of 1972, is amended as follows:

21-5-13. (1) Regular public meetings of the council shall be held on the first day of * * * January after the election of the mayor and councilmen (or commissioners) that is not on a weekend, and thereafter at least twice each month, at such time as the council may by resolution provide. When a regular meeting of the council shall fall on a holiday, the council shall meet the following day.

Special meetings may be called at any time by the mayor or by two (2) councilmen. At any and all meetings of the council, a majority of all the members thereof shall constitute a quorum. The quorum required by this section may be established by teleconference or video means as provided in Section 25-41-5(2). The affirmative vote of a majority of all the members of the council shall be necessary to adopt any motion, resolution or ordinance, or to pass any measure whatever, unless a greater number is provided for in this chapter. Upon every vote taken by the council, the yeas and nays shall be called and recorded, and every motion, resolution or ordinance shall be reduced to writing before the vote is taken thereon. Upon request of one or more



council members, any motion, resolution or ordinance shall be read by the clerk before the vote is taken thereon.

(2) The council may, pursuant to Section 21-17-17, set a day other than Monday for the holding of its regular bimonthly meeting.

SECTION 7. Section 21-5-23, Mississippi Code of 1972, is amended as follows:

21-5-23. Nothing in this chapter shall be construed in any way to affect, alter or modify the existence of municipalities now operating under Chapter 108 of the Laws of 1908. Such municipalities shall continue to enjoy the form of government now enjoyed by them, and each shall be possessed of all rights, powers, privileges and immunities granted and conferred by Chapter 108 of the Laws of 1908. The mayor and commissioners of all municipalities now operating under Chapter 108 of the Laws of 1908 shall hold their offices for a term of four (4) years, and until their successors are duly elected and qualified; however, those elected at the election held in 2017 shall hold their offices for a term of four (4) years and six (6) months, and until their successors are duly elected and qualified. The officers shall qualify and enter upon the discharge of their duties on the first day of * * * January after such general election that is not on a weekend, and shall hold their office for four (4) years, and until their successors are duly elected and qualified; however, those elected at the election held in 2017 shall hold their offices for



a term of four (4) years and six (6) months, and until their successors are duly elected and qualified.

SECTION 8. Section 21-7-5, Mississippi Code of 1972, is amended as follows:

21-7-5. The manner in which any municipality, within the class provided in Section 21-7-1 may change its form of government to the plan authorized herein, shall be as follows:

One or more petitions, similar in form and substance, addressed to the mayor praying that an election be held to determine whether or not such city shall abandon its existing form of government and become organized under a council form of government, signed by at least twenty (20) per centum of the qualified electors of such city, shall be filed with the city clerk, who shall deal with the same as required with reference to other petitions.

If on the delivery of such petition to the mayor, it shall appear that such petition or petitions have not been signed by the required number of qualified electors of such city, the mayor shall at once certify such fact and immediately return such petition or petitions to the person or persons presenting the same, who may thereafter procure additional signers thereto and again file such petition or petitions with the city clerk, as above provided, as an original petition.

If it shall appear at any time from the certificate of the city clerk that said petition or petitions have been signed by the



349 requisite number of qualified electors of said city, the mayor
350 shall immediately refer the same to the board of aldermen. If it
351 shall appear that said petition or petitions are in proper form
352 and have been sufficiently signed by the qualified electors of
353 such city, they shall, within thirty (30) days, order, and
354 provide, for the holding of a special election in such city, to be
355 held, not less than thirty (30), nor more than sixty (60) days,
356 from the date of making such order, notice of which election shall
357 be given, and the same shall be held and conducted as other
358 elections in such city. At such special election the propositions
359 to be voted for shall be: "FOR THE COUNCIL FORM OF GOVERNMENT"
360 and "FOR THE PRESENT FORM OF GOVERNMENT," which propositions shall
361 be printed on the official ballot at such election. As soon as
362 the return of such election shall have been certified by the
363 persons holding the same, the board of aldermen shall at their
364 next regular meeting, consider the same, and if a majority of the
365 votes cast at such election, are in favor of the council form of
366 government, then they shall enter an order providing for the
367 election of a mayor, a vice mayor and five (5) other councilmen
368 provided for under Section 21-7-7, at an election to be held on
369 the * * * first Tuesday after the first Monday in * * * November
370 next before the expiration of the terms of the municipal officers
371 then holding office. Thereupon the said petition or petitions,
372 and all proceedings had thereon, including an order of the mayor
373 and board of aldermen that the form of government will be changed



on the first Monday of January following the expiration of their term of office, shall be recorded in the ordinance book of such city, which record shall be evidence of all the matters and things therein contained. The mayor of such city shall immediately certify to the Secretary of State that such city by special election has adopted the system of government provided for herein, which certificate shall be recorded in a book kept for that purpose by the Secretary of State. In case it shall appear by said election returns that a majority of the votes cast at such election were in favor of the existing form of government, then the board of aldermen shall dismiss the petition, in which case no similar petition shall be filed for a period of one (1) year from the date of such order, but nothing short of such election shall preclude the filing of the petition at any time.

Any city which shall have operated for more than two (2) years under the council form of government may abandon such form of government and return to the code charter form of government by substantially the same procedure through petitions and elections as herein provided for change to the council form of government. Such change, however, shall take effect on the first Monday of January following the expiration of the term of office of the members of the council then holding office.

SECTION 9. Section 21-7-7, Mississippi Code of 1972, is amended as follows:



21-7-7. The governing body of any such municipality shall be a council, known and designated as such, consisting of seven (7) members. One (1) of the members shall be the mayor, having the qualifications as prescribed by Section 21-3-9, who shall have full rights, powers and privileges of other councilmen. The mayor shall be nominated and elected at large; the remaining councilmen shall be nominated and elected one (1) from each ward into which the city shall be divided. However, if the city be divided into less than six (6) wards, the remaining councilmen shall be nominated and elected at large. The councilmen, including the mayor, shall be elected for a term of four (4) years to serve until their successors are elected and qualified in accordance with the provisions of Section 21-11-7, said term commencing on the first Monday of January after the municipal election first following the adoption of the form of government as provided by this chapter; however, those councilmen, including the mayor, elected at the election held in 2017 shall hold their offices for a term of four (4) years and six (6) months, and until their successors are duly elected and qualified.

The compensation for the members of the council shall, for the first four (4) years of operation, under this chapter, be fixed by the * * * mayor and board of aldermen holding office prior to the change in form of government. Thereafter the amount of compensation for each such member may be increased or decreased by the council, by council action taken prior to the election of



members thereof for the ensuing term, such action to become effective with the ensuing terms.

SECTION 10. Section 21-8-7, Mississippi Code of 1972, is amended as follows:

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

(2) Except as otherwise provided in subsection (4) of this section, the mayor and council members shall be elected by the voters of the municipality at a regular municipal election held on the first Tuesday after the first Monday in * * * November as provided in Section 21-11-7, and shall serve for a term of four (4) years beginning on the first day of * * * January next following the election that is not on a weekend; however, those mayors and council members elected at the election held in 2017 shall hold their offices for a term of four (4) years and six (6) months, and until their successors are duly elected and qualified.

(3) The terms of the initial mayor and council members shall commence at the expiration of the terms of office of the elected officials of the municipality serving at the time of adoption of the mayor-council form of government.

(4) (a) The council shall consist of five (5), seven (7) or nine (9) members. In the event there are five (5) council



members, the municipality shall be divided into either five (5) or four (4) wards. In the event there are seven (7) council members, the municipality shall be divided into either seven (7), six (6) or five (5) wards. In the event there are nine (9) council members, the municipality shall be divided into seven (7) or nine (9) wards. If the municipality is divided into fewer wards than it has council members, the other council member or members shall be elected from the municipality at large. The total number of council members and the number of council members elected from wards shall be established by the petition or petitions presented pursuant to Section 21-8-3. One (1) council member shall be elected from each ward by the voters of that ward. Council members elected to represent wards must be residents of their wards at the time of qualification for election, and any council member who removes the member's residence from the municipality or from the ward from which elected shall vacate that office. However, any candidate for council member who is properly qualified as a candidate under applicable law shall be deemed to be qualified as a candidate in whatever ward the member resides if the ward has changed after the council has redistricted the municipality as provided in paragraph (c)(ii) of this subsection (4), and if the wards have been so changed, any person may qualify as a candidate for council member, using the person's existing residence or by changing the person's residence, not less than fifteen (15) days before the first party primary or special party



primary, as the case may be, notwithstanding any other residency or qualification requirements to the contrary.

(b) The council or board existing at the time of the adoption of the mayor-council form of government shall designate the geographical boundaries of the wards within one hundred twenty (120) days after the election in which the mayor-council form of government is selected. In designating the geographical boundaries of the wards, each ward shall contain, as nearly as possible, the population factor obtained by dividing the municipality's population as shown by the most recent decennial census by the number of wards into which the municipality is to be divided.

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



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

(d) If annexation of additional territory into the municipal corporate limits of the municipality occurs less than six (6) months before the first party primary of a general municipal election, the council shall, by ordinance adopted within three (3) days of the effective date of the annexation, assign the annexed territory to an adjacent ward or wards so as to maintain as nearly as possible substantial equality of population between wards; any subsequent redistricting of the municipality by ordinance, as required by this chapter, shall not serve as the basis for representation until the next regularly scheduled election for municipal council members.

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

(6) The mayor shall maintain an office at the city hall. The council members shall not maintain individual offices at the city hall; however, in a municipality having a population of one hundred thousand (100,000) and above according to the latest federal decennial census, council members may have individual



offices in the city hall. Clerical work of council members in the performance of the duties of their office shall be performed by municipal employees or at municipal expense, and council members shall be reimbursed for the reasonable expenses incurred in the performance of the duties of their office.

SECTION 11. Section 21-8-11, Mississippi Code of 1972, is amended as follows:

21-8-11. (1) During the first council meeting of a new council, the council shall elect one (1) member as president of the council and one (1) of its other members as vice president, both of whom shall serve at the pleasure of the council. The president shall preside at all council meetings. In the event of the president's absence or disability, the vice president shall act as president. In the event of the absence of the president and vice president, a presiding officer shall be designated by majority vote of the council to serve during such meeting. All councilmen, including the president, shall have the right to vote in the council at all times, even when serving as acting mayor.

(2) Regular public meetings of the council shall be held on the first Tuesday after the first day of * * * January after the election of the members of the council that is not on a weekend and at least monthly thereafter on the first Tuesday after the first Monday in each month, or at such other times as the council by order may set. Special meetings may be called at any time by the mayor or a majority of the members of the council. At any and



all meetings of the council, a majority of the members thereof shall constitute a quorum and the affirmative vote of a majority of the quorum at any meeting shall be necessary to adopt any motion, resolution or ordinance, or to pass any measure whatever unless otherwise provided in this chapter. The quorum required by this section may be established by teleconference or video means as provided in Section 25-41-5(2). Upon every vote taken by the council, the yeas and nays shall be recorded and every motion, resolution or ordinance shall be reduced to writing before the vote is taken thereon. Upon request of one or more council members, any motion, resolution or ordinance shall be read by the clerk before the vote is taken thereon.

(3) No councilman shall be a member of any commission or board appointed or designated herein, or serve as a member of any commission or board under their jurisdiction except as otherwise provided by law.

SECTION 12. Section 21-9-15, Mississippi Code of 1972, is amended as follows:

21-9-15. (1) (a) The legislative power of any city in which the council-manager plan of government is in effect under this chapter shall be vested in a council consisting of a mayor and five (5) councilmen.

(b) Any city with a larger or smaller number of councilmen, prior to September 30, 1962, may retain this larger or smaller number of councilmen or may adopt the council size of five



572 (5) as prescribed herein. This option shall be exercised through
573 the enactment of an appropriate ordinance by the municipal
574 governing body prior to the election to adopt the council-manager
575 plan of government. In the event the council fails to exercise
576 this option, the council shall consist of five (5) councilmen.

577 (c) At the next regular municipal election which takes
578 place after the adoption of the council-manager form of
579 government, the mayor shall be elected at large by the voters of
580 the entire city. Also, the councilmen shall be elected at large
581 by the voters of the entire city to represent a city-wide
582 district, or each of four (4) councilmen may be elected from a
583 ward to represent such ward and one (1) councilman may be elected
584 to represent a city-wide district. This option shall be exercised
585 by an appropriate ordinance enacted by the city governing body
586 prior to the election to adopt the council-manager plan of
587 government. In the event the council fails to exercise this
588 option, the councilmen shall be elected at large to represent the
589 city-wide district. In its discretion at any time after adoption
590 and implementation of the council-manager plan of government the
591 council may provide for the election of councilmen by wards as
592 provided herein, which shall become effective at the next
593 regularly scheduled election for city councilmen.

594 (d) Councilmen elected to represent wards must be
595 residents of their wards; and in cities having more or fewer than
596 five (5) councilmen, prior to September 30, 1962, the city



governing body shall determine the number of councilmen to represent the wards and the number of councilmen to represent the city-wide district.

(e) The council of any municipality having a population exceeding forty-five thousand (45,000) inhabitants according to the 1970 decennial census which is situated in a Class 1 county bordering on the State of Alabama and which is governed by a council-manager plan of government on January 1, 1977, may, in its discretion, adopt an ordinance to require the election of four (4) of the five (5) council members from wards and not from the city at large. The four (4) council members shall be elected one (1) each from the wards in which they reside in the municipality, and shall be elected only by the registered voters residing within the ward in which the council member resides. The mayor and fifth council member may continue to be elected from the city at large. Any council member who shall remove his residence from the ward from which he was elected shall, by operation of law, vacate his seat on the council.

After publication of the population of the municipality according to the 1980 decennial census, the governing authorities of the municipality shall designate the geographical boundaries of new wards as provided in this * * * paragraph. Each ward shall contain as nearly as possible the population factor obtained by dividing by four (4) the city's population as shown by the 1980 and each most recent decennial census thereafter. It shall be the



622 mandatory duty of the council to redistrict the city by ordinance,
623 which ordinance may not be vetoed by the mayor, within six (6)
624 months after the official publication by the United States of the
625 population of the city as enumerated in each decennial census, and
626 within six (6) months after the effective date of any expansion of
627 municipal boundaries; provided, however, if the publication of the
628 most recent decennial census or effective date of an expansion of
629 the municipal boundaries occurs six (6) months or more prior to
630 the first primary of a general municipal election, then the
631 council shall redistrict the city by ordinance within at least
632 sixty (60) days of such first primary. If the publication of the
633 most recent decennial census occurs less than six (6) months prior
634 to the first primary of a general municipal election, the election
635 shall be held with regard to currently defined wards; and
636 reapportioned wards based on the census shall not serve as the
637 basis for representation until the next regularly scheduled
638 election in which council members shall be elected. If annexation
639 of additional territory into the municipal corporate limits of the
640 city shall occur less than six (6) months prior to the first
641 primary of a general municipal election, the city council shall,
642 by ordinance adopted within three (3) days of the effective date
643 of such annexation, assign such annexed territory to an adjacent
644 ward or wards so as to maintain as nearly as possible substantial
645 equality of population between wards. Any subsequent
646 redistricting of the city by ordinance as required by this section



shall not serve as the basis for representation until the next regularly scheduled election for city councilmen.

(2) However, in any municipality situated in a Class 1 county bordering on the Mississippi Sound and the State of Alabama, traversed by U.S. Highway 90, the legislative power of such municipality in which the council-manager plan of government is in effect shall be vested in a council consisting of a mayor and six (6) councilmen. In the next regular municipal election in such municipality, the mayor shall be elected at large by the voters of the entire municipality. Also, the councilmen shall be elected at large by the voters of the entire municipality to represent a municipality-wide district, or each of five (5) councilmen may be elected from one (1) of five (5) wards to represent said ward and one (1) councilman shall be elected to represent a municipality-wide district. This option as to wards shall be exercised by an appropriate ordinance enacted by the municipal governing body. In the event the council fails to exercise this option, the councilmen shall be elected at large to represent the municipality-wide district. Councilmen elected to represent wards must be residents of their wards.

The method of electing the mayor and councilmen shall be the same as otherwise provided by law except as provided in this chapter. The mayor and councilmen elected hereunder shall hold office for a term of four (4) years and until their successors are elected and qualified; however, those mayors and councilmen



672 elected at the election held in 2017 shall hold their offices for
673 a term of four (4) years and six (6) months, and until their
674 successors are duly elected and qualified. No person shall be
675 eligible to the office of mayor or councilman unless he is a
676 qualified elector of such city.

677 (3) (a) In the event a city with a population of one
678 hundred thousand (100,000) or more inhabitants according to the
679 last decennial census adopts the council-manager form of
680 government, the legislative power of said city shall be vested in
681 a council consisting of a mayor and eight (8) councilmen.

682 (b) At the next regular municipal election which takes
683 place after the adoption of the council-manager form of
684 government, the mayor shall be elected at large by the voters of
685 the entire municipality. The municipality shall be divided into
686 five (5) wards with one (1) councilman to be elected from each
687 ward by the voters of that ward, and three (3) councilmen to be
688 elected from the municipality at large. Councilmen elected to
689 represent wards must be residents of their wards at the time of
690 qualification for election, and any councilman who removes his
691 residence from the city or from the ward from which he was elected
692 shall vacate his office.

693 (c) It shall be the duty of the municipal governing
694 body existing at the time of the adoption of the council-manager
695 form of government to designate the geographical boundaries of the
696 five (5) wards within sixty (60) days after the election in which



697 the council-manager form is selected. In designating the
698 geographical boundaries of the five (5) wards, each ward shall
699 contain as nearly as possible the population factor obtained by
700 dividing by five (5) the city's population as shown by the most
701 recent decennial census. It shall be the mandatory duty of the
702 council to redistrict the city by ordinance, which ordinance may
703 not be vetoed by the mayor, within six (6) months after the
704 official publication by the United States of the population of the
705 city as enumerated in each decennial census, and within six (6)
706 months after the effective date of any expansion of municipal
707 boundaries; however, if the publication of the most recent
708 decennial census or effective date of an expansion of the
709 municipal boundaries occurs six (6) months or more prior to the
710 first primary of a general municipal election, then the council
711 shall redistrict the city by ordinance within at least sixty (60)
712 days of such first primary. If the publication of the most recent
713 decennial census occurs less than six (6) months prior to the
714 first primary of a general municipal election, the election shall
715 be held with regard to currently defined wards; and reapportioned
716 wards based on the census shall not serve as the basis for
717 representation until the next regularly scheduled election in
718 which city councilmen shall be elected. If annexation of
719 additional territory into the municipal corporate limits of the
720 city shall occur less than six (6) months prior to the first
721 primary of a general municipal election, the city council shall,



by ordinance adopted within three (3) days of the effective date of such annexation, assign such annexed territory to an adjacent ward or wards so as to maintain as nearly as possible substantial equality of population between wards; any subsequent redistricting of the city by ordinance as required by this section shall not serve as the basis for representation until the next regularly scheduled election for city councilmen.

(4) The method of electing the mayor and councilmen shall be the same as otherwise provided by law, except as provided in this chapter. The mayor and councilmen elected hereunder shall hold office for a term of four (4) years and until their successors are elected and qualified; however, those mayors and councilmen elected at the election held in 2017 shall hold their offices for a term of four (4) years and six (6) months, and until their successors are duly elected and qualified. No person shall be eligible to the office of mayor or councilman unless he is a qualified elector of such city.

SECTION 13. Section 21-9-17, Mississippi Code of 1972, is amended as follows:

21-9-17. Except as otherwise provided, all candidates for mayor and councilmen, or any of them, to be voted for at any general or special municipal election, shall be nominated by party primary election, and no other name or names shall be placed on the official ballot at such general or special election than those selected in the manner prescribed herein. Such primary election



or elections, shall be held * * * on the first Tuesday after the first Monday of August 2021, and every four (4) years thereafter, and such primary election or elections shall be held and conducted in the manner as near as may be as is provided by law for state and county primary elections.

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

21-15-1. All officers elected at the general municipal election provided for in Section 23-15-173 shall qualify and enter upon the discharge of their duties on the first day of * * * January after such general election that is not on a weekend, and shall hold their offices for a term of four (4) years and until their successors are duly elected and qualified; however, those elected at the election held in 2017 shall hold their offices for a term of four (4) years and six (6) months, and until their successors are duly elected and qualified.

SECTION 15. This act shall take effect and be in force from and after July 1, 2019.

