

By: Representatives Horne, Williamson

To: Municipalities

HOUSE BILL NO. 788

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



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

58 * * *

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61 chancery court, is repealed.

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

64 21-1-31. Upon * * * appeal by the municipal authorities, to
65 the chancery court, the chancellor shall fix a date certain,
66 either in term time or in vacation, when a hearing on * * * the
67 election results defeating the proposed enlargement or contraction
68 will be held, and notice thereof shall be given in the same manner
69 and for the same length of time as is provided in Section 21-1-15
70 with regard to the creation of municipal corporations, and all
71 parties interested in, affected by, or being aggrieved by * * *
72 the proposed enlargement or contraction shall have the right to
73 appear at such hearing and present their objection to such



74 proposed enlargement or contraction. * * * The municipal
75 authorities shall be required to pay all attorney's fees and all
76 costs involved with the hearing.

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

79 21-1-33. (1) If the chancellor finds from the evidence
80 including, but not limited to, the results of any election held
81 under Section 21-1-27, presented at the hearing that the proposed
82 enlargement or contraction is reasonable and is required by the
83 public convenience and necessity and, in the event of an
84 enlargement of a municipality, that reasonable public and
85 municipal services will be rendered in the annexed territory
86 within a reasonable time and that the governing authority of the
87 municipality complied with the provisions of Section 21-1-27, the
88 chancellor * * * may enter a decree approving, ratifying and
89 confirming the proposed enlargement or contraction, and describing
90 the boundaries of the municipality as altered. In so doing the
91 chancellor shall have the right and the power to modify the
92 proposed enlargement or contraction by decreasing the territory to
93 be included in or excluded from the municipality, as the case may
94 be.

95 (2) If the chancellor * * * finds from the evidence that the
96 proposed enlargement or contraction, as the case may be, is
97 unreasonable and is not required by the public convenience and
98 necessity, or in the event of an enlargement of a municipality,



99 that the governing authority of the municipality failed to comply
100 with the provisions of Section 21-1-27, then he or she shall enter
101 a decree denying the enlargement or contraction.

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

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

111 21-1-35. * * * In the event of an appeal from the judgment
112 of the chancellor, the costs incurred in the appeal shall be taxed
113 against the appellant if the judgment be affirmed, and against the
114 appellee if the judgment be reversed.

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

117 21-1-43. Any two (2) or more cities or towns being adjacent
118 or situated sufficiently near to each other may combine into and
119 become one (1) municipality in the same manner as is provided for
120 the enlargement or contraction of municipal boundaries. It shall
121 be necessary for the governing authorities of each municipality to
122 adopt the ordinance with regard * * * to the consolidation and an
123 election held in the same manner as is provided in Section 21-1-27



124 with regard to the enlargement or contraction of municipal
125 boundaries. * * * The ordinance * * * shall state the name that
126 shall be given to the municipality to be formed. In the event of
127 the consolidation of two (2) or more municipalities into one (1)
128 as * * * provided in this section, the decree of the chancellor
129 shall correctly classify the municipality so formed in accordance
130 with the facts, based upon the total population of all of such
131 municipalities as shown by the latest available federal census.
132 When * * * the consolidation shall have become final and
133 operative, all of * * * the municipalities shall be merged into
134 one (1) under the name set forth in the ordinances adopted by the
135 governing authorities of the municipalities so consolidated. The
136 governing authorities of all the municipalities so consolidated
137 shall become members of the governing authority of the
138 municipality so formed until the next regular election, when the
139 proper number of members of the governing authority shall be
140 elected as provided by law, and the mayor or chief executive
141 officer of the largest municipality, according to population,
142 shall become the mayor or chief executive officer of the
143 municipality so formed. The assessments and levies for ad valorem
144 taxation in force at the time of the consolidation of * * * the
145 municipalities for the territory of each municipality shall be the
146 assessment and levy upon which taxes shall be collected for the
147 then current fiscal year, but in all other respects the existing



148 laws and ordinances of the largest municipality, according to
149 population, shall be operative throughout the enlarged limits.

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

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

159 **SECTION 8.** This act shall take effect and be in force from
160 and after July 1, 2021.

