

By: Representatives Barton, Williamson

To: Municipalities;
Apportionment and Elections

HOUSE BILL NO. 371

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; TO AMEND SECTIONS 21-1-33 AND 21-1-47, MISSISSIPPI
9 CODE OF 1972, TO CONFORM TO THE PRECEDING SECTIONS; AND FOR
10 RELATED PURPOSES.

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

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

14 21-1-27. (1) (a) The limits and boundaries of existing
15 cities, towns and villages shall remain as now established until
16 altered in the manner hereinafter provided. When any
17 municipality * * * desires to enlarge or contract * * * its
18 boundaries * * * by adding * * * adjacent unincorporated territory
19 or excluding * * * from its boundaries any part of the
20 incorporated territory of * * * the municipality, the governing
21 authorities of such municipality shall pass an ordinance defining
22 with certainty the territory proposed to be included in or



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

36 (b) If twenty percent (20%) of the qualified electors
37 residing in the territory proposed to be annexed by a municipality
38 petitions the governing body of the municipality for an election
39 on the question of the proposed annexation, within sixty (60) days
40 after public notice of the adoption of the annexation ordinance,
41 the appropriate election officials shall hold separate elections
42 in the municipality and in the territory proposed to be annexed on
43 the question of the proposed annexation. The elections shall be
44 held within sixty (60) days after certification of the petition by
45 the municipal clerk. Notice of the elections shall be published
46 once a week for three (3) consecutive weeks before the election
47 date in a newspaper having a general circulation in the county or



48 counties in which the municipality and the territory proposed to
49 be annexed are located. The first publication shall be made not
50 less than twenty-one (21) days before the election date. The
51 elections shall be held in the same manner as are other elections.
52 The annexation shall not be permitted or approved unless both the
53 electors in the municipality and in the territory proposed to be
54 annexed approve the annexation by majority vote of those electors
55 voting in the election. If fewer than a majority of the qualified
56 electors voting in each election vote against the ordinance, the
57 ordinance shall be approved. If a majority of the qualified
58 electors voting in each election vote against the ordinance, the
59 ordinance shall not be approved. If approved in the elections,
60 the ordinance shall become effective ten (10) days after the date
61 of the final determination of the results of the elections or on a
62 later date that is specified in the ordinance. If a petition for
63 the election is not filed, the ordinance shall become effective
64 sixty (60) days after public notice of the adoption of the
65 ordinance or on a later date that is specified in the ordinance.
66 If the ordinance is not approved in the elections, the
67 municipality shall not adopt another ordinance proposing the
68 annexation of any of the same territory for a period of five (5)
69 years from the date of the election.

70 **SECTION 2.** Section 21-1-29, Mississippi Code of 1972, is
71 amended as follows:



72 21-1-29. When any * * * ordinance * * * proposing to
73 contract the municipal boundaries is passed by the municipal
74 authorities, * * * the municipal authorities shall file a petition
75 in the chancery court of the county in which * * * the
76 municipality is located * * *. The petition shall recite the fact
77 of the adoption of * * * the ordinance and shall pray that
78 the * * * contraction of the municipal boundaries * * * be
79 ratified, approved and confirmed by the court. There shall be
80 attached to * * * the petition, as exhibits * * *, a certified
81 copy of the ordinance adopted by the municipal authorities and a
82 map or plat of the municipal boundaries as they will exist * * *
83 if the contraction becomes effective.

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

86 21-1-31. Upon the filing of * * * the petition and upon
87 application therefor by the petitioner, the chancellor shall fix a
88 date certain, either in term time or in vacation, when a hearing
89 on * * * the petition will be held, and notice * * * of the
90 hearing shall be given in the same manner and for the same length
91 of time as is provided in Section 21-1-15 with regard to the
92 creation of municipal corporations * * *. All parties interested
93 in, affected by, or being aggrieved by * * * the contraction shall
94 have the right to appear at such hearing and present their
95 objection to * * * the contraction. * * *



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

98 21-1-33. (1) If the chancellor finds from the evidence
99 presented at the hearing that the proposed * * * contraction is
100 reasonable and is required by the public convenience and
101 necessity * * * and that the governing authority of the
102 municipality complied with the provisions of Section 21-1-27, the
103 chancellor shall enter a decree approving, ratifying and
104 confirming the proposed * * * contraction, and describing the
105 boundaries of the municipality as altered. In so doing, the
106 chancellor shall have the right and the power to modify the
107 proposed * * * contraction by decreasing the territory to be * * *
108 or excluded from the municipality, as the case may be.

109 (2) If the chancellor shall find from the evidence that
110 the * * * contraction * * * is unreasonable and is not required by
111 the public convenience and necessity, or in the event * * * the
112 governing authority of the municipality failed to comply with the
113 provisions of Section 21-1-27, then he shall enter a decree
114 denying the * * * contraction.

115 (3) In any event, the decree of the chancellor shall become
116 effective after the passage of ten (10) days from the date * * *
117 of the decree or, in the event an appeal is taken therefrom,
118 within ten (10) days from the final determination of the appeal.
119 In any proceeding under this section the burden shall be upon the



120 municipal authorities to show that the proposed * * * contraction
121 is reasonable.

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

124 21-1-35. * * * If no objection is made to the petition for
125 the * * * contraction of the municipal boundaries, the
126 municipality shall be taxed with all costs of the proceedings.

127 * * * If the objection is made, * * * the costs may be taxed
128 in * * * the manner * * * the chancellor shall determine to be
129 equitable pursuant to the Mississippi Rules of Civil Procedure.

130 * * * If there is an appeal from the judgment of the chancellor,
131 the costs incurred in the appeal shall be taxed against the
132 appellant if the judgment * * * is affirmed, and against the
133 appellee if the judgment * * * is reversed.

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

136 21-1-37. If the municipality or any other interested person
137 who was a party to the proceedings in the chancery court * * * is
138 aggrieved by the decree of the chancellor regarding contraction of
139 the municipal boundaries, then * * * the municipality or other
140 person may prosecute an appeal * * * from the chancellor's decree
141 within the time and in the manner and with like effect as is
142 provided in Section 21-1-21 in the case of appeals from the decree
143 of the chancellor with regard to the creation of a municipal
144 corporation.



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

147 21-1-39. (1) Whenever the corporate limits of any
148 municipality * * * are contracted, as herein provided, the
149 chancery clerk shall forward, after the expiration of ten (10)
150 days from the date of * * * the decree if no appeal be taken
151 therefrom, * * * to the Secretary of State a certified copy
152 of * * * the decree, which shall be filed in the Office of the
153 Secretary of State and shall remain a permanent record thereof.

154 * * * If an appeal * * * is taken from * * * the decree and * * *
155 the decree is affirmed, then the certified copy * * * of the
156 decree shall be forwarded to the Secretary of State within ten
157 (10) days after receipt of the mandate from the Supreme Court
158 notifying the clerk of * * * the affirmance.

159 (2) Whenever the corporate limits of any municipality are
160 enlarged as provided in Section 21-1-27, the governing body of the
161 municipality, after the annexation ordinance has become effective,
162 shall forward to the Secretary of State a certified copy of the
163 ordinance, which shall be filed in the Office of the Secretary of
164 State and shall remain a permanent record thereof.

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



170 **SECTION 9.** Section 21-1-33, Mississippi Code of 1972, is
171 amended as follows:

172 21-1-33. (1) If the chancellor finds from the evidence
173 presented at the hearing that the proposed * * * contraction is
174 reasonable and is required by the public convenience and necessity
175 and * * * the chancellor shall enter a decree approving, ratifying
176 and confirming the proposed * * * contraction, and describing the
177 boundaries of the municipality as altered. In so doing the
178 chancellor shall have the right and the power to modify the
179 proposed * * * contraction by decreasing the territory to be * * *
180 excluded from the municipality * * *.

181 (2) If the chancellor shall find from the evidence that the
182 proposed * * * contraction * * * is unreasonable and is not
183 required by the public convenience and necessity * * * and that
184 the governing authority of the municipality failed to comply with
185 the provisions of Section 21-1-27, then he or she shall enter a
186 decree denying the * * * contraction.

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



194 **SECTION 10.** Section 21-1-47, Mississippi Code of 1972, is
195 amended as follows:

196 21-1-47. Upon the filing of such a petition, all of the
197 proceedings of this chapter with regard to proceedings in the
198 chancery court upon petitions for the creation * * * and
199 contraction of municipalities shall apply in like manner thereto.
200 Notice of the filing of such petition and the time for the hearing
201 shall be given in the manner and for the length of time as is
202 required in cases of proceedings for the creation * * * or
203 contraction of a municipality. Any parties to the proceedings
204 aggrieved by the decree of the chancellor may appeal therefrom in
205 the same manner and within the same time as is provided in cases
206 of decrees on petitions involving the creation * * * or
207 contraction of a municipal corporation. In all proceedings under
208 this section, however, the municipal corporation involved shall be
209 made a party to such proceedings and shall be served with process
210 in the manner provided by law at least thirty (30) days prior to
211 the date of the hearing. If the chancellor finds from the
212 evidence that the proposed * * * exclusion is reasonable and is
213 required by the public convenience and necessity, then he or she
214 shall enter a decree declaring the territory in question to
215 be * * * excluded from the municipality, * * * which decree shall
216 contain an adjudication of the boundaries of the municipality as
217 altered. In so doing, the chancellor shall have the right and
218 power to modify the proposed * * * contraction by decreasing the



219 territory * * * excluded from the municipality * * *. If the
220 chancellor shall find from the evidence that the proposed * * *
221 exclusion * * * is unreasonable and is not required by the public
222 convenience and necessity, then he or she shall enter a decree
223 denying same. In any event, the decree of the chancellor shall
224 become effective after the passage of ten (10) days from the date
225 thereof or, in the event an appeal is taken therefrom, within ten
226 (10) days from the final determination of such appeal. In all
227 cases where territory is * * * excluded from a municipality under
228 the provisions hereof, a certified copy of the decree of the
229 chancellor shall be sent to the Secretary of State and a map or
230 plat of the boundaries of the municipality as altered shall be
231 filed with the chancery clerk, all as provided in Sections 21-1-39
232 and 21-1-41.

233 **SECTION 11.** This act shall take effect and be in force from
234 and after July 1, 2022.

