

By: Representatives Hopkins, Criswell

To: Municipalities;
Apportionment and Elections

HOUSE BILL NO. 791

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 THAT IS
 3 THE SUBJECT OF AN ANNEXATION OR REMOVAL ORDINANCE; TO PROVIDE THAT
 4 THE COSTS OF THE ELECTION SHALL BE PAID BY THE GOVERNING
 5 AUTHORITIES OF THE MUNICIPALITY THAT IS SEEKING THE ANNEXATION OR
 6 REMOVAL OF THE PROPOSED TERRITORY IN THE COUNTY; TO REPEAL SECTION
 7 21-1-29, MISSISSIPPI CODE OF 1972, WHICH REQUIRES AN ENLARGEMENT
 8 OR CONTRACTION PETITION TO BE FILED IN CHANCERY COURT; TO AMEND
 9 SECTION 21-1-31, MISSISSIPPI CODE OF 1972, TO REQUIRE THE
 10 MUNICIPAL AUTHORITIES TO PAY ATTORNEY'S FEES AND ALL COSTS OF
 11 COURT WHEN APPEALING THE ELECTION RESULTS; TO AMEND SECTION
 12 21-1-33, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE CHANCELLOR
 13 MAY CONSIDER ELECTION RESULTS AS EVIDENCE; TO AMEND SECTIONS
 14 21-1-35 AND 21-1-43, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE
 15 PRECEDING SECTIONS; AND FOR RELATED PURPOSES.

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

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

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



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

41 (2) After the passage of the ordinance, the board of
42 supervisors of the county in which the territory proposed to be
43 annexed or removed is located shall hold an election in the
44 territory on the question of the proposed annexation or removal.
45 The costs of the election shall be paid by the municipal governing
46 authorities seeking the annexation or removal. Only those persons
47 residing in the area to be annexed or removed shall be allowed to
48 vote in the election. The election shall be held within sixty
49 (60) days after passage of the ordinance. Notice of the election



50 shall be published in a newspaper having a general circulation in
51 the territory proposed to be annexed or removed once a week for
52 three (3) consecutive weeks before the election date, and the
53 first publication shall be made not less than twenty-one (21) days
54 before the election date. The election shall be held in the same
55 manner as are other county elections. The results of the election
56 shall be certified by the election commissioners of the county and
57 shall be considered as the final decision on the issue of
58 annexation or removal unless the governing authorities of such
59 municipality appeal the election decision to the chancery court of
60 the county in which such municipality is located.

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

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

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



75 appear at such hearing and present their objection to such
76 proposed enlargement or contraction. * * * The municipal
77 authorities shall be required to pay all attorney's fees and all
78 costs involved with the hearing.

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

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

97 (2) If the chancellor * * * finds from the evidence that the
98 proposed enlargement or contraction, as the case may be, is
99 unreasonable and is not required by the public convenience and



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

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

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

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

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

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



125 election held in the same manner as is provided in Section 21-1-27
126 with regard to the enlargement or contraction of municipal
127 boundaries. * * * The ordinance * * * shall state the name that
128 shall be given to the municipality to be formed. In the event of
129 the consolidation of two (2) or more municipalities into one (1)
130 as * * * provided in this section, the decree of the chancellor
131 shall correctly classify the municipality so formed in accordance
132 with the facts, based upon the total population of all of such
133 municipalities as shown by the latest available federal decennial
134 census. When * * * the consolidation shall have become final and
135 operative, all of * * * the municipalities shall be merged into
136 one (1) under the name set forth in the ordinances adopted by the
137 governing authorities of the municipalities so consolidated. The
138 governing authorities of all the municipalities so consolidated
139 shall become members of the governing authority of the
140 municipality so formed until the next regular election, when the
141 proper number of members of the governing authority shall be
142 elected as provided by law, and the mayor or chief executive
143 officer of the largest municipality, according to population,
144 shall become the mayor or chief executive officer of the
145 municipality so formed. The assessments and levies for ad valorem
146 taxation in force at the time of the consolidation of * * * the
147 municipalities for the territory of each municipality shall be the
148 assessment and levy upon which taxes shall be collected for the
149 then current fiscal year, but in all other respects the existing



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

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

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

161 **SECTION 8.** This act shall take effect and be in force from
162 and after July 1, 2022.

