

By: Representatives Eubanks, Hale, Keen

To: Municipalities

HOUSE BILL NO. 1040

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; AND FOR RELATED PURPOSES.

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

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

12 21-1-27. (1) (a) The limits and boundaries of existing
13 cities, towns and villages shall remain as now established until
14 altered in the manner hereinafter provided. When any
15 municipality * * * desires to enlarge or contract * * * its
16 boundaries * * * by adding * * * adjacent unincorporated territory
17 to its boundaries or excluding * * * from its boundaries any part
18 of the incorporated territory of * * * the municipality, the
19 governing authorities of such municipality shall pass an ordinance
20 defining with certainty the territory proposed to be included in
21 or excluded from the corporate limits, and also defining the



entire boundary as changed. * * * If the municipality desires to
enlarge * * * its boundaries, * * * the ordinance shall in general
terms describe the proposed improvements to be made in the annexed
territory, the manner and extent of such improvements, and the
approximate time within which such improvements are to be made;
such ordinance shall also contain a statement of the municipal or
public services which such municipality proposes to render in such
annexed territory. * * * If the municipality * * * desires to
contract its boundaries, such ordinance shall contain a statement
of the reasons for * * * the contraction and a statement
showing * * * how the public convenience and necessity would be
served thereby.

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



be annexed are located. The first publication shall be made not less than twenty-one (21) days before the election date. The elections shall be held in the same manner as are other elections. The annexation shall not be permitted or approved unless both the electors in the municipality and in the territory proposed to be annexed approve the annexation by majority vote of those electors voting in the election. If fewer than a majority of the qualified electors voting in each election vote against the ordinance, the ordinance shall be approved. If a majority of the qualified electors voting in each election vote against the ordinance, the ordinance shall not be approved. If approved in the elections, the ordinance shall become effective ten (10) days after the date of the final determination of the results of the elections or on a later date that is specified in the ordinance. If a petition for the election is not filed, the ordinance shall become effective sixty (60) days after public notice of the adoption of the ordinance or on a later date that is specified in the ordinance. If the ordinance is not approved in the elections, the municipality shall not adopt another ordinance proposing the annexation of any of the same territory for a period of five (5) years from the date of the election.

* * *

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



71 21-1-29. When any * * * ordinance * * * proposing to
72 contract the municipal boundaries is passed by the municipal
73 authorities, * * * the municipal authorities shall file a petition
74 in the chancery court of the county in which * * * the
75 municipality is located * * *. The petition shall recite the fact
76 of the adoption of * * * the ordinance and shall pray that
77 the * * * contraction of the municipal boundaries * * * shall be
78 ratified, approved and confirmed by the court. There shall be
79 attached to * * * the petition, as exhibits thereto, a certified
80 copy of the ordinance adopted by the municipal authorities and a
81 map or plat of the municipal boundaries as they will exist * * *
82 if the contraction becomes effective.

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

85 21-1-31. Upon the filing of * * * the petition and upon
86 application therefor by the petitioner, the chancellor shall fix a
87 date certain, either in term time or in vacation, when a hearing
88 on * * * the petition will be held, and notice * * * of the
89 hearing shall be given in the same manner and for the same length
90 of time as is provided in Section 21-1-15 with regard to the
91 creation of municipal corporations, and all parties interested in,
92 affected by, or being aggrieved by * * * the contraction shall
93 have the right to appear at such hearing and present their
94 objection to * * * the contraction. * * *



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

97 21-1-33. (1) If the chancellor finds from the evidence
98 presented at the hearing that the proposed * * * contraction is
99 reasonable and is required by the public convenience and
100 necessity * * * and that the governing authority of the
101 municipality complied with the provisions of Section 21-1-27, the
102 chancellor shall enter a decree approving, ratifying and
103 confirming the proposed * * * contraction, and describing the
104 boundaries of the municipality as altered. In so doing the
105 chancellor shall have the right and the power to modify the
106 proposed * * * contraction by decreasing the territory to be
107 included in or excluded from the municipality, as the case may be.

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

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



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

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

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

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

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

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

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



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

146 21-1-39. (1) Whenever the corporate limits of any
147 municipality * * * are contracted, as herein provided, the
148 chancery clerk shall forward, after the expiration of ten (10)
149 days from the date of * * * the decree if no appeal be taken
150 therefrom, * * * to the Secretary of State a certified copy
151 of * * * the decree, which shall be filed in the office of the
152 Secretary of State and shall remain a permanent record thereof.

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

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

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



169 **SECTION 9.** This act shall take effect and be in force from
170 and after July 1, 2025.

