

By: Senator(s) McLendon

To: Municipalities

SENATE BILL NO. 2428

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 A MUNICIPAL ANNEXATION OR REMOVAL ORDINANCE; TO
4 PROVIDE THAT THE COSTS OF THE ELECTION SHALL BE PAID BY THE
5 GOVERNING AUTHORITY OF THE MUNICIPALITY THAT IS SEEKING THE
6 ANNEXATION OR REMOVAL OF THE PROPOSED TERRITORY IN THE COUNTY; TO
7 AMEND SECTION 21-1-31, MISSISSIPPI CODE OF 1972, TO REQUIRE THE
8 MUNICIPAL AUTHORITIES TO PAY ATTORNEY'S FEES AND ALL COSTS OF
9 COURT WHEN APPEALING THE ELECTION RESULTS; TO AMEND SECTION
10 21-1-33, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE CHANCELLOR
11 MAY CONSIDER ELECTION RESULTS AS EVIDENCE; TO AMEND SECTIONS
12 21-1-35 AND 21-1-43, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE
13 PRECEDING SECTIONS; TO REPEAL SECTION 21-1-29, MISSISSIPPI CODE OF
14 1972, WHICH REQUIRES A MUNICIPAL ENLARGEMENT OR CONTRACTION
15 PETITION TO BE FILED IN CHANCERY COURT; 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 authority seeking the annexation or removal. Only those persons
47 residing in the territory to be annexed or removed shall be
48 allowed to vote in the election. The election shall be held
49 within sixty (60) days after passage of the ordinance. Notice of



50 the election shall be published in a newspaper having a general
51 circulation in the territory proposed to be annexed or removed
52 once a week for three (3) consecutive weeks before the election
53 date, and the first publication shall be made not less than
54 twenty-one (21) days before the election date. The election shall
55 be held in the same manner as are other county elections. The
56 results of the election shall be certified by the election
57 commissioners of the county and shall be considered as the final
58 decision on the issue of annexation or removal unless the
59 governing authority of the municipality appeals the election
60 decision to the chancery court of the county in which such
61 municipality is located. The annexation shall not be permitted or
62 approved unless both the electors in the municipality and in the
63 territory proposed to be annexed approve the annexation by a fifty
64 percent (50%) plus one (1) vote of those electors voting in the
65 election. If fifty percent (50%) plus one (1) of the qualified
66 electors voting in each election vote to approve the ordinance,
67 the ordinance shall be approved. If approved in the elections,
68 the ordinance shall become effective ten (10) days after the date
69 of the final determination of the results of the elections or on a
70 later date that is specified in the ordinance.

71 (3) [Repealed]

72 **SECTION 2.** Section 21-1-31, Mississippi Code of 1972, is
73 amended as follows:



21-1-31. Upon * * * appeal by the * * * municipal authority
to the chancery court, the chancellor shall fix a date certain,
either in term time or in vacation, when a hearing on * * * the
election results defeating the proposed enlargement or contraction
will be held, and notice thereof shall be given in the same manner
and for the same length of time as is provided in Section 21-1-15
with regard to the creation of municipal corporations, and all
parties interested in, affected by, or being aggrieved by * * *
the proposed enlargement or contraction shall have the right to
appear at such hearing and present their objection to such
proposed enlargement or contraction. * * * The municipal
authority shall be required to pay all attorney's fees and all
costs involved with the hearing.

SECTION 3. Section 21-1-33, Mississippi Code of 1972, is
amended as follows:

21-1-33. (1) If the chancellor finds from the evidence,
including, but not limited to, the results of any election held
under Section 21-1-27, presented at the hearing that the proposed
enlargement or contraction is reasonable and is required by the
public convenience and necessity and, in the event of an
enlargement of a municipality, that reasonable public and
municipal services will be rendered in the annexed territory
within a reasonable time and that the governing authority of the
municipality complied with the provisions of Section 21-1-27, the
chancellor * * * may enter a decree approving, ratifying and



99 confirming the proposed enlargement or contraction, and describing
100 the boundaries of the municipality as altered. In so doing the
101 chancellor shall have the right and the power to modify the
102 proposed enlargement or contraction by decreasing the territory to
103 be included in or excluded from the municipality, as the case may
104 be.

105 (2) If the chancellor * * * finds from the evidence that the
106 proposed enlargement or contraction, as the case may be, is
107 unreasonable and is not required by the public convenience and
108 necessity, or in the event of an enlargement of a municipality,
109 that the governing authority of the municipality failed to comply
110 with the provisions of Section 21-1-27, then * * * the chancellor
111 shall enter a decree denying the enlargement or contraction.

112 (3) In any event, the decree of the chancellor shall become
113 effective after the passage of ten (10) days from the date thereof
114 or, in the event an appeal is taken therefrom, within ten (10)
115 days from the final determination of the appeal. In any
116 proceeding under this section the burden shall be upon the
117 municipal authorities to show that the proposed enlargement or
118 contraction is reasonable.

119 **SECTION 4.** Section 21-1-35, Mississippi Code of 1972, is
120 amended as follows:

121 21-1-35. * * * In the event of an appeal from the judgment
122 of the chancellor, the costs incurred in the appeal shall be taxed



against the appellant if the judgment be affirmed, and against the appellee if the judgment be reversed.

SECTION 5. Section 21-1-43, Mississippi Code of 1972, is amended as follows:

21-1-43. Any two (2) or more cities or towns being adjacent or situated sufficiently near to each other may combine into and become one (1) municipality in the same manner as is provided for the enlargement or contraction of municipal boundaries. It shall be necessary for the governing authorities of each municipality to adopt the ordinance with regard * * * to the consolidation and an election held in the same manner as is provided in Section 21-1-27 with regard to the enlargement or contraction of municipal boundaries. * * * The ordinance * * * shall state the name that shall be given to the municipality to be formed. In the event of the consolidation of two (2) or more municipalities into one (1) as * * * provided in this section, the decree of the chancellor shall correctly classify the municipality so formed in accordance with the facts, based upon the total population of all of such municipalities as shown by the latest available federal census. When * * * the consolidation shall have become final and operative, all of * * * the municipalities shall be merged into one (1) under the name set forth in the ordinances adopted by the governing authorities of the municipalities so consolidated. The governing authorities of all the municipalities so consolidated shall become members of the governing authority of the



municipality so formed until the next regular election, when the proper number of members of the governing authority shall be elected as provided by law, and the mayor or chief executive officer of the largest municipality, according to population, shall become the mayor or chief executive officer of the municipality so formed. The assessments and levies for ad valorem taxation in force at the time of the consolidation of * * * the municipalities for the territory of each municipality shall be the assessment and levy upon which taxes shall be collected for the then current fiscal year, but in all other respects the existing laws and ordinances of the largest municipality, according to population, shall be operative throughout the enlarged limits.

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

SECTION 6. Section 21-1-29, Mississippi Code of 1972, which provides for a municipal enlargement or contraction petition to be filed in chancery court, is repealed.

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



172 **SECTION 8.** This act shall take effect and be in force from
173 and after July 1, 2025.

