

By: Representatives Hamilton (109th),
Staples, Turner

To: Municipalities; County
Affairs

HOUSE BILL NO. 796

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) The limits and boundaries of existing cities,
13 towns and villages shall remain as now established until altered
14 in the manner hereinafter provided. When any municipality * * *
15 desires to enlarge or contract its boundaries * * * by adding to
16 its boundaries adjacent unincorporated territory or excluding from
17 its boundaries any part of the incorporated territory of the
18 municipality, the governing authorities of the municipality shall
19 pass an ordinance defining with certainty the territory proposed
20 to be included in or excluded from the corporate limits, and also
21 defining the entire boundary as changed. If the municipality
22 desires to enlarge its boundaries, the ordinance shall in general
23 terms describe the proposed improvements to be made in the annexed
24 territory, the manner and extent of the improvements, and the
25 approximate time within which the improvements are to be made; the
26 ordinance also shall * * * contain a statement of the municipal or
27 public services that the municipality proposes to render in the
28 annexed territory. If the municipality * * * desires to contract
29 its boundaries, the ordinance shall contain a statement of the

30 reasons for the contraction and a statement showing how the public
31 convenience and necessity would be served by the contraction.

32 (2) If twenty percent (20%) of the qualified electors
33 residing in the territory proposed to be annexed by a municipality
34 petition the governing body of the municipality for an election on
35 the question of the proposed annexation, within sixty (60) days
36 after public notice of the adoption of the annexation ordinance,
37 the appropriate election officials shall hold separate elections
38 in the municipality and in the territory proposed to be annexed on
39 the question of the proposed annexation. The elections shall be
40 held within sixty (60) days after certification of the petition by
41 the municipal clerk. Notice of the elections shall be published
42 once a week for three (3) consecutive weeks before the election
43 date in a newspaper having a general circulation in the county or
44 counties in which the municipality and the territory proposed to
45 be annexed are located. The first publication shall be made not
46 less than twenty-one (21) days before the election date. The
47 elections shall be held in the same manner as are other elections.
48 The annexation shall not be permitted or approved unless both the
49 electors in the municipality and in the territory proposed to be
50 annexed approve the annexation by majority vote of those electors
51 voting in the election. If fewer than a majority of the qualified
52 electors voting in each election vote against the ordinance, the
53 ordinance shall be approved. If a majority of the qualified
54 electors voting in each election vote against the ordinance, the
55 ordinance shall not be approved. If approved in the elections,
56 the ordinance shall become effective ten (10) days after the date
57 of the final determination of the results of the elections or on a
58 later date that is specified in the ordinance. If a petition for
59 the elections is not filed, the ordinance shall become effective
60 sixty (60) days after public notice of the adoption of the
61 ordinance or on a later date that is specified in the ordinance.
62 If the ordinance is not approved in the elections, the

63 municipality shall not adopt another ordinance proposing the
64 annexation of any of the same territory for a period of five (5)
65 years from the date of the election.

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

68 21-1-29. When any * * * ordinance proposing to contract the
69 municipal boundaries is passed by the municipal authorities, the
70 municipal authorities shall file a petition in the chancery court
71 of the county in which the municipality is located * * *. The
72 petition shall recite the fact of the adoption of the ordinance
73 and shall pray that the * * * contraction of the municipal
74 boundaries * * * shall be ratified, approved and confirmed by the
75 court. There shall be attached to the petition, as exhibits
76 thereto, a certified copy of the ordinance adopted by the
77 municipal authorities and a map or plat of the municipal
78 boundaries as they will exist if the contraction becomes
79 effective.

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

82 21-1-31. Upon the filing of the petition and upon
83 application therefor by the petitioner, the chancellor shall fix a
84 date certain, either in termtime or in vacation, when a hearing on
85 the petition will be held, and notice of the hearing shall be
86 given in the same manner and for the same length of time as is
87 provided in Section 21-1-15 with regard to the creation of
88 municipal corporations, and all parties interested in, affected
89 by, or being aggrieved by the proposed * * * contraction shall
90 have the right to appear at the hearing and present their
91 objection to the proposed * * * contraction. * * *

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

94 21-1-33. If the chancellor finds from the evidence presented
95 at the hearing that the proposed * * * contraction is reasonable

96 and is required by the public convenience and necessity * * *, the
97 chancellor shall enter a decree approving, ratifying and
98 confirming the proposed * * * contraction, and describing the
99 boundaries of the municipality as altered. In so doing the
100 chancellor shall have the right and the power to modify the
101 proposed * * * contraction by decreasing the territory to be * * *
102 excluded from the municipality * * *. If the chancellor * * *
103 finds from the evidence that the proposed * * * contraction * * *
104 is unreasonable and is not required by the public convenience and
105 necessity, then he shall enter a decree denying the contraction.
106 In any event, the decree of the chancellor shall become effective
107 after the passage of ten (10) days from the date of the decree or,
108 if an appeal is taken therefrom, within ten (10) days from the
109 final determination of the appeal. In any proceeding under this
110 section, the burden shall be upon the municipal authorities to
111 show that the proposed * * * contraction is reasonable.

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

114 21-1-35. If no objection is made to the petition for
115 the * * * contraction of the municipal boundaries, the
116 municipality shall be taxed with all costs of the proceedings. If
117 objection is made, the costs may be taxed in a manner as the
118 chancellor * * * determines to be equitable under the Mississippi
119 Rules of Civil Procedure. If there is an appeal from the judgment
120 of the chancellor, the costs incurred in the appeal shall be taxed
121 against the appellant if the judgment is affirmed, and against the
122 appellee if the judgment is reversed.

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

125 21-1-37. If the municipality or any other interested person
126 who was a party to the proceedings in the chancery court be
127 aggrieved by the decree of the chancellor regarding contraction of
128 the municipal boundaries, then the municipality or other person

129 may prosecute an appeal therefrom within the time and in the
130 manner and with like effect as is provided in Section 21-1-21 in
131 the case of appeals from the decree of the chancellor with regard
132 to the creation of a municipal corporation.

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

135 21-1-39. (1) Whenever the corporate limits of any
136 municipality are contracted as herein provided, the chancery clerk
137 shall, after the expiration of ten (10) days from the date of the
138 decree if an appeal is not taken therefrom, forward to the
139 Secretary of State a certified copy of the decree, which shall be
140 filed in the Office of the Secretary of State and shall remain a
141 permanent record thereof. If an appeal is taken from the decree
142 and the decree is affirmed, then the certified copy of the decree
143 shall be forwarded to the Secretary of State within ten (10) days
144 after receipt of the mandate from the Supreme Court notifying the
145 clerk of the affirmance.

146 (2) Whenever the corporate limits of any municipality are
147 enlarged as provided in Section 21-1-27, the governing body of the
148 municipality, after the annexation ordinance has become effective,
149 shall forward to the Secretary of State a certified copy of the
150 ordinance, which shall be filed in the Office of the Secretary of
151 State and shall remain a permanent record of the office.

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

157 **SECTION 9.** The Attorney General of the State of Mississippi
158 shall submit this act, immediately upon approval by the Governor,
159 or upon approval by the Legislature subsequent to a veto, to the
160 Attorney General of the United States or to the United States
161 District Court for the District of Columbia in accordance with the

162 provisions of the Voting Rights Act of 1965, as amended and
163 extended.

164 **SECTION 10.** This act shall take effect and be in force from
165 and after the date it is effectuated under Section 5 of the Voting
166 Rights Act of 1965, as amended and extended.