

By: Representative Horne

To: Municipalities;
Apportionment and Elections

HOUSE BILL NO. 728

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

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

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

16 21-1-27. (1) The limits and boundaries of existing cities,
17 towns and villages shall remain as now established until altered
18 in the manner * * * provided in this section. When any
19 municipality shall desire to enlarge or contract its
20 boundaries * * * by adding * * * adjacent unincorporated territory
21 or excluding * * * any part of the incorporated territory of such
22 municipality, the governing authorities of the municipality shall
23 pass an ordinance defining with certainty the territory proposed
24 to be included in or excluded from the corporate limits, and also
25 defining the entire boundary as changed. In the event the
26 municipality desires to enlarge its boundaries, the ordinance
27 shall in general terms describe the proposed improvements to be
28 made in the annexed territory, the manner and extent of such
29 improvements, and the approximate time within which the
30 improvements are to be made; the ordinance shall also contain a
31 statement of the municipal or public services which the
32 municipality proposes to render in the annexed territory. In the

33 event the municipality shall desire to contract its boundaries,
34 the ordinance shall contain a statement of the reasons for the
35 contraction and a statement showing how the public convenience and
36 necessity would be served * * *.

37 (2) After the passage of the ordinance, the board of
38 supervisors of the county or counties in which the territory
39 proposed to be annexed or removed is located shall hold an
40 election in the territory on the question of the proposed
41 annexation or removal. Only those persons residing in the area to
42 be annexed or removed shall be allowed to vote in the election.
43 The election shall be held within sixty (60) days after passage of
44 the ordinance. Notice of the election shall be published in a
45 newspaper having a general circulation in the territory proposed
46 to be annexed or removed once a week for three (3) consecutive
47 weeks before the election date, and the first publication shall be
48 made not less than twenty-one (21) days before the election date.
49 The election shall be held in the same manner as are other county
50 elections. The results of the election shall be certified by the
51 election commissioners of the county and shall be considered as
52 the final decision on the issue of annexation or removal unless
53 the governing authorities of such municipality appeal the election
54 decision to the chancery court of the county in which such
55 municipality is located.

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

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

61 21-1-31. Upon appeal by the municipal authorities, to the
62 chancery court, the chancellor shall fix a date certain, either in
63 termtime or in vacation, when a hearing on the election results
64 defeating the proposed enlargement or contraction will be held,
65 and notice thereof shall be given in the same manner and for the

66 same length of time as is provided in Section 21-1-15 with regard
67 to the creation of municipal corporations, and all parties
68 interested in, affected by, or being aggrieved by said proposed
69 enlargement or contraction shall have the right to appear at the
70 hearing and present their objection to such proposed enlargement
71 or contraction. The municipal authorities shall be required to
72 pay all attorney's fees and all costs involved in such a hearing.

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

75 21-1-33. If the chancellor finds from the evidence,
76 including, but not limited to, the results of any election held
77 under Section 21-1-27, presented at the hearing that the proposed
78 enlargement or contraction is reasonable and is required by the
79 public convenience and necessity and, in the event of an
80 enlargement of a municipality, that reasonable public and
81 municipal services shall be rendered in the annexed territory
82 within a reasonable time, the chancellor may enter a decree
83 approving, ratifying and confirming the proposed enlargement or
84 contraction, and describing the boundaries of the municipality as
85 altered. In so doing the chancellor shall have the right and the
86 power to modify the proposed enlargement or contraction by
87 decreasing the territory to be included in or excluded from the
88 municipality, as the case may be. If the chancellor shall find
89 from the evidence that the proposed enlargement or contraction, as
90 the case may be, is unreasonable and is not required by the public
91 convenience and necessity, then he or she shall enter a decree
92 denying the enlargement or contraction. In any event, the decree
93 of the chancellor shall become effective after the passage of ten
94 (10) days from the date thereof or, in event an appeal is taken
95 therefrom, within ten (10) days from the final determination of
96 the appeal. In any proceeding under this section the burden shall
97 be upon the municipal authorities to show that the proposed
98 enlargement or contraction is reasonable.

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

101 21-1-35. * * * In the event of an appeal from the judgment
102 of the chancellor, the costs incurred in the appeal shall be taxed
103 against the appellant if the judgment be affirmed, and against the
104 appellee if the judgment be reversed.

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

107 21-1-43. Any two (2) or more cities or towns being adjacent
108 or situated sufficiently near to each other may combine into and
109 become one (1) municipality in the same manner as is provided for
110 the enlargement or contraction of municipal boundaries. It shall
111 be necessary for the governing authorities of each municipality to
112 adopt the ordinance with regard to the consolidation and an
113 election held in the same manner as is provided in Section 21-1-27
114 with regard to the enlargement or contraction of municipal
115 boundaries. * * * The ordinance * * * shall state the name that
116 shall be given to the municipality to be formed. In the event of
117 the consolidation of two (2) or more municipalities into one (1)
118 as * * * provided in this section, the decree of the chancellor
119 shall correctly classify the municipality so formed in accordance
120 with the facts, based upon the total population of all of such
121 municipalities as shown by the latest available federal census.
122 When the consolidation shall have become final and operative, all
123 of such municipalities shall be merged into one (1) under the name
124 set forth in the ordinances adopted by the governing authorities
125 of the municipalities so consolidated. The governing authorities
126 of all the municipalities so consolidated shall become members of
127 the governing authority of the municipality so formed until the
128 next regular election, when the proper number of members of the
129 governing authority shall be elected as provided by law, and the
130 mayor or chief executive officer of the largest municipality,
131 according to population, shall become the mayor or chief executive

132 officer of the municipality so formed. The assessments and levies
133 for ad valorem taxation in force at the time of the consolidation
134 of the municipalities for the territory of each municipality shall
135 be the assessment and levy upon which taxes shall be collected for
136 the then current fiscal year, but in all other respects the
137 existing laws and ordinances of the largest municipality,
138 according to population, shall be operative throughout the
139 enlarged limits.

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

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

149 **SECTION 8.** The Attorney General of the State of Mississippi
150 shall submit this act, immediately upon approval by the Governor,
151 or upon approval by the Legislature subsequent to a veto, to the
152 Attorney General of the United States or to the United States
153 District Court for the District of Columbia in accordance with the
154 provisions of the Voting Rights Act of 1965, as amended and
155 extended.

156 **SECTION 9.** This act shall take effect and be in force from
157 and after the date it is effectuated under Section 5 of the Voting
158 Rights Act of 1965, as amended and extended.