

By: Representative Franks

To: Municipalities;  
Apportionment and Elections

## HOUSE BILL NO. 802

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 THE TERRITORY PROPOSED TO BE ANNEXED WHEN THE GOVERNING  
 4 AUTHORITIES OF A MUNICIPALITY DESIRE TO ENLARGE THE MUNICIPALITY'S  
 5 BOUNDARIES; TO AMEND SECTIONS 21-1-29, 21-1-31, 21-1-33, 21-1-35,  
 6 21-1-37 AND 21-1-39, MISSISSIPPI CODE OF 1972, TO REMOVE THE  
 7 QUESTION OF MUNICIPAL ANNEXATION FROM THE CHANCERY COURT; AND FOR  
 8 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 \* \* \* provided in this chapter. When any  
 15 municipality \* \* \* desires to enlarge or contract its  
 16 boundaries \* \* \* by adding to its boundaries adjacent  
 17 unincorporated territory or excluding from its boundaries any part  
 18 of the incorporated territory of the municipality, the governing  
 19 authorities of the municipality shall pass an ordinance defining  
 20 with certainty the territory proposed to be included in or  
 21 excluded from the corporate limits, and also defining the entire  
 22 boundary as changed. If the municipality desires to enlarge the  
 23 boundaries, the ordinance must in general terms describe the  
 24 proposed improvements to be made in the annexed territory, the  
 25 manner and extent of the improvements, and the approximate time  
 26 within which the improvements are to be made; the ordinance \* \* \*  
 27 also must contain a statement of the municipal or public services  
 28 that the municipality proposes to render in the annexed territory.  
 29 If the municipality \* \* \* desires to contract its boundaries, the  
 30 ordinance must contain a statement of the reasons for the

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

33 (2) If twenty percent (20%) of the qualified electors  
34 residing in the territory proposed to be annexed by a municipality  
35 petition the governing body of the municipality for an election on  
36 the question of the proposed annexation within sixty (60) days  
37 after public notice of the adoption of the annexation ordinance,  
38 the board of supervisors of the county or counties in which the  
39 territory proposed to be annexed is located shall hold an election  
40 in the territory on the question of the proposed annexation. The  
41 election shall be held within sixty (60) days after certification  
42 of the petition by the municipal clerk. Notice of the election  
43 shall be published in a newspaper having a general circulation in  
44 the territory proposed to be annexed once a week for three (3)  
45 consecutive weeks before the election date, and the first  
46 publication shall be made not less than twenty-one (21) days  
47 before the election date. The election shall be held in the same  
48 manner as are other county elections. If a majority of the  
49 qualified electors voting in the election vote for the ordinance,  
50 the ordinance is approved. If a majority of the qualified  
51 electors voting in the election vote against the ordinance, the  
52 ordinance is not approved. If approved in the election, the  
53 ordinance becomes effective ten (10) days after the date of the  
54 final determination of the results of the election or on a later  
55 date that is specified in the ordinance. If a petition for an  
56 election is not filed, the ordinance becomes effective sixty (60)  
57 days after public notice of the adoption of the ordinance or on a  
58 later date that is specified in the ordinance. If the ordinance  
59 is not approved in the election, the municipality may not adopt  
60 another ordinance proposing the annexation of any of the same  
61 territory for a period of five (5) years from the date of the  
62 election.

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

65           21-1-29. When any \* \* \* ordinance proposing to contract the  
66 municipal boundaries is passed by the municipal authorities, the  
67 municipal authorities shall file a petition in the chancery court  
68 of the county in which the municipality is located \* \* \*. The  
69 petition shall recite the fact of the adoption of the ordinance  
70 and shall pray that the \* \* \* contraction of the municipal  
71 boundaries \* \* \* be ratified, approved and confirmed by the court.  
72 There shall be attached to the petition, as exhibits \* \* \*, a  
73 certified copy of the ordinance adopted by the municipal  
74 authorities and a map or plat of the municipal boundaries as they  
75 will exist if the contraction becomes effective.

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

78           21-1-31. Upon the filing of the petition and upon  
79 application therefor by the petitioner, the chancellor shall fix a  
80 date certain, either in termtime or in vacation, when a hearing on  
81 the petition will be held, and notice of the hearing shall be  
82 given in the same manner and for the same length of time as is  
83 provided in Section 21-1-15 with regard to the creation of  
84 municipal corporations. All parties interested in, affected by,  
85 or being aggrieved by the proposed \* \* \* contraction \* \* \* have  
86 the right to appear at the hearing and present their objection to  
87 the proposed \* \* \* contraction. \* \* \*

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

90           21-1-33. If the chancellor finds from the evidence presented  
91 at the hearing that the proposed \* \* \* contraction is reasonable  
92 and is required by the public convenience and necessity \* \* \*, the  
93 chancellor shall enter a decree approving, ratifying and  
94 confirming the proposed \* \* \* contraction, and describing the  
95 boundaries of the municipality as altered. In so doing the

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

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

110 21-1-35. If no objection is made to the petition for  
111 the \* \* \* contraction of the municipal boundaries, the  
112 municipality shall be taxed with all costs of the proceedings. If  
113 objection is made, the costs may be taxed in a manner as the  
114 chancellor \* \* \* determines to be equitable under the Mississippi  
115 Rules of Civil Procedure. If there is an appeal from the judgment  
116 of the chancellor, the costs incurred in the appeal shall be taxed  
117 against the appellant if the judgment is affirmed, and against the  
118 appellee if the judgment is reversed.

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

121 21-1-37. If the municipality or any other interested person  
122 who was a party to the proceedings in the chancery court is  
123 aggrieved by the decree of the chancellor regarding contraction of  
124 the municipal boundaries, then the municipality or other person  
125 may prosecute an appeal from the chancellor's decree within the  
126 time and in the manner and with like effect as is provided in  
127 Section 21-1-21 in the case of appeals from the decree of the  
128 chancellor with regard to the creation of a municipal corporation.

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

131           21-1-39. (1) Whenever the corporate limits of any  
132 municipality are contracted, as herein provided, the chancery  
133 clerk \* \* \*, after the expiration of ten (10) days from the date  
134 of the decree, if an appeal is not taken therefrom, shall forward  
135 to the Secretary of State a certified copy of the decree, which  
136 shall be filed in the Office of the Secretary of State and shall  
137 remain a permanent record thereof. If an appeal is taken from the  
138 decree and the decree is affirmed, then the certified copy of the  
139 decree shall be forwarded to the Secretary of State within ten  
140 (10) days after receipt of the mandate from the Supreme Court  
141 notifying the clerk of the affirmance.

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

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

153           **SECTION 9.** The Attorney General of the State of Mississippi  
154 shall submit this act, immediately upon approval by the Governor,  
155 or upon approval by the Legislature subsequent to a veto, to the  
156 Attorney General of the United States or to the United States  
157 District Court for the District of Columbia in accordance with the  
158 provision of the Voting Rights Act of 1965, as amended and  
159 extended.

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