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Chapter No. 319

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SENATE BILL NO. 2706

Originated in Senate

Jenn O'Quinn

Secretary

SENATE BILL NO. 2706

AN ACT TO AMEND SECTIONS 21-5-23, 21-8-7 AND 21-15-1, MISSISSIPPI CODE OF 1972, TO CHANGE THE DATE UPON WHICH ELECTED MUNICIPAL OFFICERS TAKE OFFICE FROM THE FIRST MONDAY IN JULY TO THE FIRST DAY IN JULY THAT DOES NOT OCCUR ON A WEEKEND; TO AMEND SECTIONS 21-5-13 AND 21-8-11, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 21-5-23, Mississippi Code of 1972, is amended as follows:

21-5-23. Nothing in this chapter shall be construed in any way to affect, alter or modify the existence of municipalities now operating under Chapter 108 of the Laws of 1908. Such municipalities shall continue to enjoy the form of government now enjoyed by them, and each shall be possessed of all rights, powers, privileges and immunities granted and conferred by Chapter 108 of the Laws of 1908. The mayor and commissioners of all municipalities now operating under Chapter 108 of the Laws of 1908 shall hold their offices for a term of four (4) years, and until their successors are duly elected and qualified. The officers shall qualify and enter upon the discharge of their duties on the first day of July after such general election that is not on a weekend, and shall hold their office for four (4) years, and until their successors are duly elected and qualified.

SECTION 2. Section 21-8-7, Mississippi Code of 1972, is amended as follows:

21-8-7. (1) Each municipality operating under the mayor-council form of government shall be governed by an elected council and an elected mayor. Other officers and employees shall

be duly appointed pursuant to this chapter, general law or ordinance.

(2) Except as otherwise provided in subsection (4) of this section, the mayor and councilmen shall be elected by the voters of the municipality at a regular municipal election held on the first Tuesday after the first Monday in June as provided in Section 21-11-7, and shall serve for a term of four (4) years beginning on the first day of July next following his election that is not on a weekend.

(3) The terms of the initial mayor and councilmen shall commence at the expiration of the terms of office of the elected officials of the municipality serving at the time of adoption of the mayor-council form.

(4) (a) The council shall consist of five (5), seven (7) or nine (9) members. In the event there are five (5) councilmen, the municipality shall be divided into either five (5) or four (4) wards. In the event there are seven (7) councilmen, the municipality shall be divided into either seven (7), six (6) or five (5) wards. In the event there are nine (9) councilmen, the municipality shall be divided into seven (7) or nine (9) wards. If the municipality is divided into fewer wards than it has councilmen, the other councilman or councilmen shall be elected from the municipality at large. The total number of councilmen and the number of councilmen elected from wards shall be established by the petition or petitions presented pursuant to Section 21-8-3. One (1) councilman shall be elected from each ward by the voters of that ward. Councilmen elected to represent wards must be residents of their wards at the time of qualification for election, and any councilman who removes his residence from the municipality or from the ward from which he was elected shall vacate his office. However, any candidate for councilman who is properly qualified as a candidate under applicable law shall be deemed to be qualified as a candidate in

whatever ward he resides if his ward has changed after the council has redistricted the municipality as provided in paragraph (c) (ii) of this subsection (4), and if the wards have been so changed, any person may qualify as a candidate for councilman, using his existing residence or by changing his residence, not less than fifteen (15) days prior to the first party primary or special party primary, as the case may be, notwithstanding any other residency or qualification requirements to the contrary.

(b) The council or board existing at the time of the adoption of the mayor-council form of government shall designate the geographical boundaries of the wards within one hundred twenty (120) days after the election in which the mayor-council form of government is selected. In designating the geographical boundaries of the wards, each ward shall contain, as nearly as possible, the population factor obtained by dividing the municipality's population as shown by the most recent decennial census by the number of wards into which the municipality is to be divided.

(c) (i) It shall be the mandatory duty of the council to redistrict the municipality by ordinance, which ordinance may not be vetoed by the mayor, within six (6) months after the official publication by the United States of the population of the municipality as enumerated in each decennial census, and within six (6) months after the effective date of any expansion of municipal boundaries; however, if the publication of the most recent decennial census or effective date of an expansion of the municipal boundaries occurs six (6) months or more prior to the first party primary of a general municipal election, then the council shall redistrict the municipality by ordinance not less than sixty (60) days prior to such first party primary.

(ii) If the publication of the most recent decennial census occurs less than six (6) months prior to the first primary of a general municipal election, the election shall

be held with regard to currently defined wards; and reapportioned wards based on the census shall not serve as the basis for representation until the next regularly scheduled election in which council members shall be elected.

(d) If annexation of additional territory into the municipal corporate limits of the municipality shall occur less than six (6) months prior to the first party primary of a general municipal election, the council shall, by ordinance adopted within three (3) days of the effective date of such annexation, assign such annexed territory to an adjacent ward or wards so as to maintain as nearly as possible substantial equality of population between wards; any subsequent redistricting of the municipality by ordinance as required by this chapter shall not serve as the basis for representation until the next regularly scheduled election for municipal councilmen.

(5) Vacancies occurring in the council shall be filled as provided in Section 23-15-857.

(6) The mayor shall maintain an office at the city hall. The councilmen shall not maintain individual offices at the city hall; provided, however, that in municipalities with populations of one hundred ninety thousand (190,000) and above, councilmen may have individual offices in the city hall. Clerical work of councilmen in the performance of the duties of their office shall be performed by municipal employees or at municipal expense, and councilmen shall be reimbursed for the reasonable expenses incurred in the performance of the duties of their office.

SECTION 3. Section 21-15-1, Mississippi Code of 1972, is amended as follows:

21-15-1. All officers elected at the general municipal election provided for in Section 23-15-173, shall qualify and enter upon the discharge of their duties on the first day of July after such general election that is not on a weekend, and shall

hold their offices for a term of four (4) years and until their successors are duly elected and qualified.

SECTION 4. Section 21-5-13, Mississippi Code of 1972, is amended as follows:

21-5-13. (1) Regular public meetings of the council shall be held on the first day of July after the election of the mayor and councilmen (or commissioners) that is not on a weekend, and thereafter at least twice each month, at such time as the council may by resolution provide. When a regular meeting of the council shall fall on a holiday, the council shall meet the following day.

Special meetings may be called at any time by the mayor or by two (2) councilmen. At any and all meetings of the council, a majority of all the members thereof shall constitute a quorum. The affirmative vote of a majority of all the members of the council shall be necessary to adopt any motion, resolution or ordinance, or to pass any measure whatever, unless a greater number is provided for in this chapter. Upon every vote taken by the council the yeas and nays shall be called and recorded, and every motion, resolution or ordinance shall be reduced to writing before the vote is taken thereon. Upon request of one or more council members, any motion, resolution or ordinance shall be read by the clerk before the vote is taken thereon.

(2) The council may, pursuant to Section 21-17-17, set a day other than Monday for the holding of its regular bimonthly meeting.

SECTION 5. Section 21-8-11, Mississippi Code of 1972, is amended as follows:

21-8-11. (1) During the first council meeting of a new council, the council shall elect one (1) member as president of the council and one (1) of its other members as vice president, both of whom shall serve at the pleasure of the council. The president shall preside at all council meetings. In the event of the president's absence or disability, the vice president shall

act as president. In the event of the absence of the president and vice president, a presiding officer shall be designated by majority vote of the council to serve during such meeting. All councilmen, including the president, shall have the right to vote in the council at all times, even when serving as acting mayor.

(2) Regular public meetings of the council shall be held on the first Tuesday after the first day of July after the election of the members of the council that is not on a weekend and at least monthly thereafter on the first Tuesday after the first Monday in each month, or at such other times as the council by order may set. Special meetings may be called at any time by the mayor or a majority of the members of the council. At any and all meetings of the council, a majority of the members thereof shall constitute a quorum and the affirmative vote of a majority of the members present at any meeting shall be necessary to adopt any motion, resolution or ordinance, or to pass any measure whatever unless otherwise provided in this chapter. Upon every vote taken by the council the yeas and nays shall be recorded and every motion, resolution or ordinance shall be reduced to writing before the vote is taken thereon. Upon request of one or more council members, any motion, resolution or ordinance shall be read by the clerk before the vote is taken thereon.

(3) No councilman shall be a member of any commission or board appointed or designated herein, or serve as a member of any commission or board under their jurisdiction except as otherwise provided by law.

SECTION 6. Section 21-35-27, Mississippi Code of 1972, is amended as follows:

21-35-27. No board of governing authorities of any municipality shall expend from, or contract an obligation, against the budget made and published by it during the last year of the term of office of such governing authorities, between the first day of April and the first day of the following July that is not

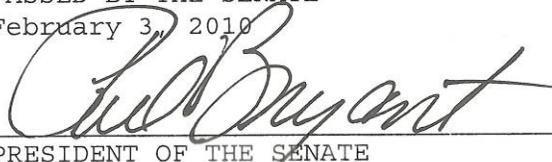
on a weekend, a sum exceeding one-fourth (1/4) of any item of the budget made and published by it, except in cases of emergency provided for in Section 21-35-19. The city clerk of any municipality is hereby prohibited from issuing any warrant contrary to the provisions of this section.

The provisions of this section shall not apply to a contract, lease or lease-purchase contract entered into pursuant to Section 31-7-13 or to seasonal purchases or expenditures.

SECTION 7. The Attorney General of the State of Mississippi shall submit this act, immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to the Attorney General of the United States or to the United States District Court for the District of Columbia in accordance with the provisions of the Voting Rights Act of 1965, as amended and extended.

SECTION 8. This act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.

PASSED BY THE SENATE
February 3, 2010



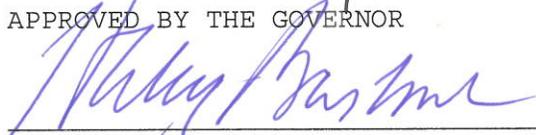
PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
March 1, 2010



SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR



GOVERNOR

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