



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

April 26, 2023

The Honorable Kevin Blackwell
Senator, District 19
Post Office Box 1412
Southaven, Mississippi 38671

Re: Residency Requirements under Section 23-15-300

Dear Senator Blackwell:

The Office of the Attorney General has received your request for an official opinion.

Question Presented

If a municipality annexes part of the county, would a resident of the newly annexed area be eligible to run for municipal office if the annexation occurred less than two (2) years from the day of the election?

Brief Response

The time that an individual resided within the territory prior to municipal annexation would apply to the residency requirement for municipal office in Mississippi Code Annotated Section 23-15-300(1).

Applicable Law and Discussion

Pursuant to Section 23-15-300(1), “[a]ny candidate for any municipal, county or county district office shall be a resident of the municipality, county, county district or other territory that he or she seeks to represent in such office for two (2) years immediately preceding the day of election.”

In MS AG Op., *Sautermeister* (Apr. 30, 1991), a county election commission asked several questions related to the effect of redistricting on a candidate’s eligibility to seek office in a newly created district. *Sautermeister* at *2. This office opined “that a candidate whose residency is continuous and uninterrupted may apply his previous period of residency in his former district to the period he has resided in the newly created district to satisfy the residency requirements for holding office from such district.” *Id.* The *Sautermeister* opinion relied on the “principle of combining periods of residency where there has been a change in jurisdictions without a change

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of location by the candidate or voter.” *Id.* (internal citations omitted). In MS AG Op., *Martin* (July 8, 1983), this office was asked about a situation in which a candidate’s residency switched from one district to another based upon the adoption of a new redistricting plan. In opining that the candidate was entitled to run in the new district in which he resided under the new redistricting plan, this office opined that “[t]he candidate has not moved and remains a resident in the same location. It is merely the configuration and designation which has changed and is applicable to the same land area.” *Martin* at *2. Similarly, it is the opinion of this office that an individual’s continuous and uninterrupted residency in territory that is annexed by a municipality should be considered residency within the municipality when determining whether the individual meets the residency duration requirement in Section 23-15-300(1).

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: /s/ *Beebe Garrard*

Beebe Garrard

Special Assistant Attorney General

OFFICIAL OPINION