



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

July 20, 2023

Jeffrey S. Bruni, Esq.
Attorney, City of Gulfport
2309 15th Street
Gulfport, Mississippi 39501

Re: Effective Date of New Ward Lines Following Redistricting

Dear Mr. Bruni:

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

Question Presented

Does a municipality, operating under the mayor/council form of government, have any authority to act to make the reapportioned wards serve immediately as the basis for representation when the census data was published more than six months prior to the first municipal primary, or must the municipality wait until the next regularly scheduled election for the reapportioned wards to serve as the basis for representation?

Brief Response

If census data is published six months or more before the first municipal party primary, those reapportioned wards become the basis for representation effective immediately upon adoption by the council.

Applicable Law and Discussion

According to Section 21-8-7(4)(c)(i) of the Mississippi Code, which applies to mayor/council municipalities such as the City of Gulfport:

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 before the first party primary of a general municipal election, then the council shall redistrict the municipality by ordinance not less than sixty (60) days before the first party primary.

(ii) If the publication of the most recent decennial census occurs less than six (6) months before the first primary of a general municipal election, the election shall be held with regard to the existing defined wards; *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.*

(emphasis added). We understand you are asking whether the emphasized phrase above applies to Subsection (c)(i) or whether it is limited to Subsection (c)(ii). Subsection (c)(i) provides the general rule: the city council must adopt a redistricting ordinance within six months of the official publication of census numbers and within six months of any municipal expansion. Subsection (c)(i) also provides an additional time frame: if the publication of census data or the effective date of municipal expansion is six months or more before the first party primary of the general municipal election, the council must adopt the redistricting ordinance not less than sixty days before that primary date. This sixty-day deadline corresponds with the timeframe in Section 23-15-309, "Municipal primaries," and, therefore, candidates are able to qualify for the municipal primary under the newly reapportioned wards.

Section 21-8-7(4)(c)(ii) provides an exception to the general rule in Subsection (c)(i) if the publication of census data occurs less than six months before the first primary. In that case, the election is held using the ward boundaries prior to publication of census data, and the new reapportioned wards do not serve as the basis for representation until the next election for city council members. The exception in Section 21-8-7(c)(ii) applies only if the publication of census data occurs less than six months before the primary and does not address situations in which the census data is published six months or more before the first primary of the general municipal election. Accordingly, it is the opinion of this office that if census data is published six months or more before the first municipal party primary, those reapportioned wards become the basis for representation effective immediately upon adoption by the council.

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