

By: Representatives Chaney, Johnson,
Middleton

To: Municipalities

HOUSE BILL NO. 700
(As Passed the House)

1 AN ACT TO AMEND SECTION 17-3-9, MISSISSIPPI CODE OF 1972, TO
2 EXPAND THE LIST OF MUNICIPALITIES THAT MAY ACQUIRE AND USE LAND
3 AND OTHER PROPERTY FOR CONVENTION CENTERS; TO AMEND SECTION
4 17-3-11, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT IF A
5 MUNICIPALITY LEASES CONVENTION CENTER FACILITIES AND PROPERTY TO
6 CERTAIN ENTITIES, THE MUNICIPALITY MAY TRANSFER THE FACILITIES AND
7 PROPERTY TO THE ENTITIES FOR A NOMINAL CONSIDERATION AT THE END OF
8 THE LEASE PERIOD; TO PROVIDE THAT THE DEED OR OTHER INSTRUMENT OF
9 CONVEYANCE OF THE FACILITIES AND PROPERTY SHALL CONTAIN A REVERTER
10 CLAUSE; TO AMEND SECTION 21-17-1, MISSISSIPPI CODE OF 1972, IN
11 CONFORMITY WITH THE PRECEDING PROVISION; AND FOR RELATED PURPOSES.

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

13 SECTION 1. Section 17-3-9, Mississippi Code of 1972, is
14 amended as follows:

15 17-3-9. As used in Sections 17-3-9 through 17-3-19, unless
16 the text otherwise requires:

17 (a) "Municipality" means:

18 (1) (i) Any county within the State of Mississippi
19 which borders upon the Mississippi Gulf Coast and any city, town,
20 supervisor's district, or other political entity created by the
21 state located in whole or in part in any county bordering upon the
22 Mississippi Gulf Coast or any combination of any of the above;

23 (ii) Any class one county having an area in excess
24 of seven hundred twenty (720) but less than seven hundred
25 twenty-five (725) square miles and having a total assessed
26 valuation in excess of Eighty Million Dollars (\$80,000,000.00),
27 but not more than One Hundred Million Dollars (\$100,000,000.00)
28 according to the 1963 tabulation by the State Tax Commission and
29 having a population according to the 1960 federal census in excess
30 of sixty-five thousand (65,000) but less than seventy-five

31 thousand (75,000), and any city, town, supervisor's district, or
32 other political entity created by the state located in whole or in
33 part therein;

34 (iii) Any county wherein there are located two (2)
35 county sites in one (1) supervisor district, said county sites
36 being in different judicial districts, and any city, town,
37 supervisor's district, or other political entity created by the
38 state located in whole or in part therein; and

39 (iv) Any municipality bordering upon the
40 Mississippi River that has located within its boundaries a
41 National Military Park and has a population of more than twenty
42 thousand (20,000), according to the most recent federal decennial
43 census.

44 (b) "Convention center" shall include but not be limited to
45 the following described facilities or land and the improvements
46 thereon having the common objective of promoting conventions,
47 tourism and trade within the State of Mississippi such as a
48 coliseum, auditorium, pavilion, galleries, hotels, motels,
49 restaurants, clubs and other facilities of similar nature and
50 character.

51 SECTION 2. Section 17-3-11, Mississippi Code of 1972, is
52 amended as follows:

53 17-3-11. (1) Every municipality is authorized to acquire by
54 any available funds lands, either within or without municipal
55 corporate limits, in fee or a lesser estate for the purpose of
56 establishing thereon a convention center. Any lands previously
57 acquired by a municipality and not needed for any other municipal
58 purpose may also be used for establishing thereon a convention
59 center. Lands may be acquired for the purpose herein authorized
60 by purchase, lease, gift, devise, dedication or any other lawful
61 manner.

62 (2) A municipality, as it deems proper for the efficient and
63 effective exercise of the powers and for the purposes defined
64 under Sections 17-3-9 through 17-3-19, may either acquire
65 property, real or personal, and may use any municipal property,
66 real or personal, not otherwise required for a municipal purpose,
67 all as hereinafter provided.

68 (3) The provisions of subsection (5) of this section
69 notwithstanding, every municipality is authorized to plan,
70 establish, develop, construct, enlarge, improve, maintain, equip
71 and operate through the use of land and personal property as
72 herein provided coliseums, amphitheaters, arenas, stadiums,
73 auditoriums, pavilions, galleries or similar facilities to
74 accommodate public meetings, gatherings, assemblies, conventions,
75 or any like public gathering in which persons may lawfully
76 assemble for a common lawful purpose, including but not limited to
77 purposes which are in the nature of social, economic, political,
78 religious, educational, cultural or entertainment and as members
79 of a local, state or national economic, social, political or
80 religious organization, or as members of the general public.

81 (4) Every municipality is authorized to do and perform all
82 acts and things necessary to accomplish the purposes of Sections
83 17-3-9 through 17-3-19, and, in addition to the power herein
84 conferred with respect to the facilities authorized to be planned,
85 established, developed, constructed, enlarged, improved,
86 maintained, equipped or operated by the municipality, may convey,
87 grant, bargain, sell, lease and deliver by contract or deed on
88 such terms and conditions as it may deem proper such facilities to
89 others and on such terms and conditions found and determined by
90 the governing authority of the municipality to best promote
91 conventions, tourism and trade the same as the powers herein
92 authorized with respect to lands conveyed or leased to others upon
93 which to operate hotels, motels, restaurants, clubs and other
94 similar facilities and businesses, including, but not limited to,
95 the granting of certain concessions therein or in the vicinity
96 thereof such as advertising, car rental, and what is generally
97 known as short order and/or souvenir concessions. If a
98 municipality leases facilities and the property on which the
99 facilities are located to a tax-exempt nonprofit corporation under
100 the authority of this section, the municipality may transfer the

101 facilities and property to the nonprofit corporation for a nominal
102 consideration at the end of the lease period. The deed or other
103 instrument of conveyance of the facilities and property shall
104 contain a reverter clause providing that title will revert to the
105 municipality if the facilities and property cease to be used for
106 the purposes for which they were used at the time they were
107 transferred to the nonprofit corporation.

108 (5) The power to use real or personal property authorized
109 herein is hereby prohibited with respect to operation,
110 maintenance, and engaging by a municipality in the business of
111 hotels, motels, restaurants, clubs or any other business
112 enterprises of similar nature and character, said uses being
113 hereby expressly provided to be exercised only by private
114 entrepreneurs on lease, grant or other conveyance of land and
115 personal property by the municipality.

116 (6) It is expressly provided that no municipality shall be
117 authorized to operate a hotel, motel, restaurant, club or any
118 other such facility for lodging, full-course meals, retail sales
119 of goods, wares, merchandise or services, all of which are only
120 authorized with respect to private entrepreneurs upon lands herein
121 authorized to be either acquired or used by the municipality to be
122 made available to such private entrepreneurs by the municipality
123 as herein provided.

124 SECTION 3. Section 21-17-1, Mississippi Code of 1972, is
125 amended as follows:

126 21-17-1. Every municipality of this state shall be a
127 municipal corporation and shall have power to sue and be sued; to
128 purchase and hold real estate, either within or without the
129 corporate limits, for all proper municipal purposes, including
130 parks, cemeteries, hospitals, schoolhouses, houses of correction,
131 waterworks, electric lights, sewers and other proper municipal
132 purposes; to purchase and hold personal property for all proper
133 municipal purposes; to acquire equipment and machinery by

134 lease-purchase agreement and to pay interest thereon, if
135 contracted, when needed for proper municipal purposes; to sell and
136 convey any real and personal property owned by it, and make such
137 order respecting the same as may be deemed conducive to the best
138 interest of the municipality, and exercise jurisdiction over the
139 same.

140 In case any of the real property belonging to a municipality
141 shall cease to be used for municipal purposes, the governing
142 authorities of the municipality may sell, convey or lease the same
143 on such terms as the municipal authorities may elect. In case of
144 a sale on a credit, the municipality shall charge appropriate
145 interest as contracted and shall have a lien on the same for the
146 purchase money, as against all persons, until paid and may enforce
147 the lien as in such cases provided by law. The deed of conveyance
148 in such cases shall be executed in the name of the municipality by
149 the governing authorities of the municipality pursuant to their
150 order entered on the minutes of their meetings. In any sale or
151 conveyance of real property, the municipality shall retain all
152 mineral rights that it owns, together with the right of ingress
153 and egress to remove same. Before any such lease, deed or
154 conveyance is executed, the governing authorities of the
155 municipality shall publish at least once each week for three (3)
156 consecutive weeks, in a public newspaper of the municipality in
157 which the real property is located, or if no newspaper be
158 published as such, then in a newspaper having general circulation
159 therein, the intention to lease or sell, as the case may be, the
160 municipally owned real property and to accept sealed competitive
161 bids for the leasing or sale. The governing authorities of the
162 municipality shall thereafter accept bids for the lease or sale
163 and shall award the lease or sale to the highest bidder in the
164 manner provided by law. However, whenever the governing
165 authorities of the municipality shall find and determine, by
166 resolution duly and lawfully adopted and spread upon its minutes

167 (a) that any municipally owned real property is no longer needed
168 for municipal or related purposes and is not to be used in the
169 operation of the municipality, (b) that the sale of such property
170 in the manner otherwise provided by law is not necessary or
171 desirable for the financial welfare of the municipality, and (c)
172 that the use of such property for the purpose for which it is to
173 be sold, conveyed or leased will promote and foster the
174 development and improvement of the community in which it is
175 located and the civic, social, educational, cultural, moral,
176 economic or industrial welfare thereof, the governing authorities
177 of the municipality shall be authorized and empowered, in their
178 discretion, to sell, convey or lease same for any of the purposes
179 set forth herein without having to advertise for and accept
180 competitive bids. In any case in which a municipality proposes to
181 sell, convey or lease real property under the provisions of this
182 section without advertising for and accepting competitive bids,
183 consideration for the purchase, conveyance or lease of the
184 property shall be not less than the average of the fair market
185 price for such property as determined by three (3) professional
186 property appraisers selected by the municipality and approved by
187 the purchaser or lessee. Appraisal fees shall be shared equally
188 by the municipality and the purchaser or lessee. The provisions
189 of this section regarding the sale, conveyance or lease of
190 municipally-owned real property shall not apply to transfers of
191 property authorized under Section 17-3-11.

192 Whenever the governing authorities of the municipality shall
193 find and determine by resolution duly and lawfully adopted and
194 spread upon the minutes that municipally owned real property is
195 not used for municipal purposes and therefore surplus as set forth
196 hereinabove:

197 (a) The governing authority may donate such lands to a
198 bona fide not-for-profit civic or eleemosynary corporation
199 organized and existing under the laws of the State of Mississippi

200 and granted tax exempt status by the Internal Revenue Service and
201 may donate such lands and necessary funds related thereto to the
202 public school district in which the land is situated for the
203 purposes set forth herein. Any deed or conveyance executed
204 pursuant hereto shall contain a clause of reverter providing that
205 the bona fide not-for-profit corporation or public school district
206 may hold title to such lands only so long as they are continued to
207 be used for the civic, social, educational, cultural, moral,
208 economic or industrial welfare of the community, and that title
209 shall revert to the municipality in the event of the cessation of
210 such use for a period of two (2) years. In any such deed or
211 conveyance, the municipality shall retain all mineral rights that
212 it owns, together with the right of ingress and egress to remove
213 same;

214 (b) The governing authority may donate such lands to a
215 bona fide not-for-profit corporation (such as Habitat for
216 Humanity) which is primarily engaged in the construction of
217 housing for persons who otherwise can afford to live only in
218 substandard housing. In any such deed or conveyance, the
219 municipality shall retain all mineral rights that it owns,
220 together with the right of ingress and egress to remove same.

221 Every municipality shall also be authorized and empowered to
222 loan to private persons or entities, whether organized for profit
223 or nonprofit, funds received from the United States Department of
224 Housing and Urban Development (HUD) under an urban development
225 action grant or a community development block grant under the
226 Housing and Community Development Act of 1974 (Public Law 93-383),
227 as amended, and to charge interest thereon if contracted, provided
228 that no such loan shall include any funds from any revenues other
229 than the funds from the United States Department of Housing and
230 Urban Development; to make all contracts and do all other acts in
231 relation to the property and affairs of the municipality necessary
232 to the exercise of its governmental, corporate and administrative

233 powers; and to exercise such other or further powers as are
234 otherwise conferred by law.

235 The governing authorities of any municipality may contract
236 with a private attorney or private collection agent or agency to
237 collect any type of delinquent payment owed to the municipality
238 including, but not limited to, past due fees and fines. Any such
239 contract debt may provide for payment contingent upon successful
240 collection efforts or payment based upon a percentage of the
241 delinquent amount collected; however, the entire amount of all
242 delinquent payments collected shall be remitted to the
243 municipality and shall not be reduced by any collection costs or
244 fees. Any private attorney or private collection agent or agency
245 contracting with the municipality under the provisions of this
246 paragraph shall give bond or other surety payable to the
247 municipality in such amount as the governing authorities of the
248 municipality deem sufficient. Any private attorney with whom the
249 municipality contracts under the provisions of this paragraph must
250 be a member in good standing of the Mississippi Bar. Any private
251 collection agent or agency with whom the municipality contracts
252 under the provisions of this paragraph must meet all licensing
253 requirements for doing business in the State of Mississippi.
254 Neither the municipality nor any officer or employee of the
255 municipality shall be liable, civilly or criminally, for any
256 wrongful or unlawful act or omission of any person or business
257 with whom the municipality has contracted under the provisions of
258 this paragraph. The Mississippi Department of Audit shall
259 establish rules and regulations for use by municipalities in
260 contracting with persons or businesses under the provisions of
261 this paragraph.

262 In addition to such authority as is otherwise granted under
263 this section, the governing authorities of any municipality may
264 expend funds necessary to maintain and repair, and to purchase
265 liability insurance, tags and decals for, any personal property

266 acquired under the Federal Excess Personal Property Program that
267 is used by the local volunteer fire department.

268 The governing authorities of any municipality may, in its
269 discretion, donate personal property or funds to the public school
270 district or districts located in the municipality for the
271 promotion of educational programs of the district or districts
272 within the municipality.

273 The powers conferred by this section shall be in addition and
274 supplemental to the powers conferred by any other law, and nothing
275 contained in this section shall be construed to prohibit, or to
276 prescribe conditions concerning, any practice or practices
277 authorized under any other law.

278 SECTION 4. This act shall take effect and be in force from
279 and after July 1, 1999.