

By: Representatives McBride, Morris,
Henderson (9th)

To: Municipalities

HOUSE BILL NO. 1281

1 ACT TO AUTHORIZE CERTAIN MUNICIPALITIES TO ENTER INTO ANY
2 AGREEMENT, CONTRACT, LEASE OR OTHER ARRANGEMENT WITH THE UNITED
3 STATES WHEREBY THE MUNICIPALITY MAY ACQUIRE OR LEASE REAL
4 PROPERTY, WHETHER WITHIN OR OUTSIDE THE CORPORATE BOUNDARIES OF
5 SUCH MUNICIPALITY, FOR THE PURPOSE OF DEVELOPING PARKS, TOURISM
6 AND RECREATIONAL FACILITIES AND SUPPORTING INFRASTRUCTURE; TO
7 PROVIDE THAT WHERE A MUNICIPALITY ACQUIRES OR LEASES REAL PROPERTY
8 FROM THE UNITED STATES AND THE PROPERTY IS LOCATED OUTSIDE THE
9 CORPORATE BOUNDARIES OF THE MUNICIPALITY, THE MUNICIPALITY MAY
10 INCORPORATE THE REAL PROPERTY INTO ITS CORPORATE BOUNDARIES; TO
11 PROVIDE THE PROCEDURE FOR SUCH INCORPORATION; TO AMEND SECTIONS
12 21-1-27, 21-1-29, 21-1-31, 21-1-33, 21-1-35, 21-1-37, 21-1-39,
13 21-1-41 AND 21-1-65, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE
14 PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

16 SECTION 1. The purpose of Sections 1 through 8 of House Bill
17 No. _____, 1999 Regular Session, is to promote the general welfare
18 and economic development by empowering certain municipalities to
19 (a) acquire or lease real property, whether located within or
20 outside the corporate boundaries of such municipality, from the
21 United States, (b) develop and use such real property, and (c)
22 incorporate such real property. The provisions of Sections 1
23 through 8 of House Bill No. _____, 1999 Regular Session, are and
24 shall be construed to be independent of, an alternative to and in
25 addition to all existing laws of the state governing the authority
26 of municipalities.

27 SECTION 2. As used in Sections 1 through 8 of House Bill No.
28 _____, 1999 Regular Session, the following words shall have the
29 meanings ascribed herein unless the context clearly requires
30 otherwise:

31 (a) "Municipality" means any municipality located in a
32 county in which Sardis Lake is located, in which Mississippi

33 Highway 6 and Interstate Highway 55 intersect and having a
34 population of five thousand (5,000) or less according to the 1990
35 federal decennial census.

36 (b) "Sardis Lake" means that certain flood control
37 reservoir and adjacent real property in Lafayette and Panola
38 Counties owned by the United States and operated and managed by
39 the Department of the Army through its Corps of Engineers on the
40 effective date of this act.

41 (c) The "United States" means the United States
42 Government and the United States Department of the Army, acting by
43 and through its Corps of Engineers, and any other agency,
44 department or commission of the United States owning or having
45 jurisdiction or authority, or both, over Sardis Lake or matters
46 relating thereto.

47 SECTION 3. (1) Any municipality may enter into and
48 accomplish any agreement, contract, lease or other arrangement
49 with the United States whereby the municipality may acquire or
50 lease real property, whether located within or outside the
51 corporate boundaries of such municipality, for the purpose of
52 developing and promoting parks, tourism and recreational
53 facilities of all types, including without limitation marinas,
54 restaurants, hotels, conference centers, golf courses, lakes,
55 nature trails, campgrounds and similar facilities and supporting
56 infrastructure; and the purposes set forth in any such agreement,
57 contract, lease or other arrangement and the uses described
58 therein of such real property shall be proper municipal purposes
59 for such municipality.

60 (2) Any municipality that acquires or leases real property
61 from the United States under subsection (1) of this section may
62 (a) lease and sublease, and grant rights to use, easements and
63 rights-of-way over and across, any part or all of such real
64 property for such consideration and upon such terms and conditions
65 as the municipality may deem appropriate for a period or periods
66 not to exceed seventy-five (75) years, and (b) enter into and
67 accomplish agreements, contracts, leases and subleases, and other
68 arrangements with private individuals, firms or corporations with
69 respect to the use and development of such real property.

70 (3) Any municipality that leases or subleases or grants
71 rights to use, easements or rights-of-way over and across real
72 property acquired or leased from the United States under
73 subsection (1) of this section may utilize all revenues received
74 from the rental or use of such real property or the granting of
75 such rights, or received as a result of any term or condition in
76 an agreement, contract, lease, sublease or other arrangement
77 relating to such real property, for all proper municipal purposes.

78 SECTION 4. Any municipality that acquires or leases real
79 property from the United States under Sections 1 through 8 of
80 House Bill No. _____, 1999 Regular Session, if such real property
81 is located outside the corporate boundaries of such municipality,
82 may incorporate such real property into its corporate boundaries
83 by ordinance adopted for such purpose if such real property is
84 located within the same county as the municipality, regardless of
85 whether the real property is adjacent or contiguous to the
86 existing corporate boundaries of such municipality.

87 SECTION 5. Any ordinance to incorporate real property into
88 the corporate boundaries of a municipality under Sections 1
89 through 8 of House Bill No. _____, 1999 Regular Session, shall
90 include the following provisions and shall be effective as
91 follows:

92 (a) The ordinance shall accurately describe the metes
93 and bounds of the real property to be incorporated, and only real
94 property acquired or leased from the United States under Sections
95 1 through 8 of House Bill No. _____, 1999 Regular Session, shall be
96 subject to such incorporation.

97 (b) If the United States retains ownership of the real
98 property to be incorporated by the municipality, the United States
99 must consent to the incorporation and a written statement of such
100 consent must be cited and included in the ordinance.

101 (c) The ordinance shall provide that it will not become
102 effective until publication thereof shall have been made once each

103 week for three (3) consecutive weeks in a newspaper, or
104 newspapers, published or having a general circulation in the
105 county in which the municipality and the real property to be
106 incorporated are located.

107 (d) Subject only to the limitations of Sections 1
108 through 8 of House Bill No. _____, 1999 Regular Session, the
109 ordinance shall become effective upon the effective date fixed
110 therein.

111 SECTION 6. Any person aggrieved by a municipal ordinance
112 adopted under Sections 1 through 8 of House Bill No. _____, 1999
113 Regular Session, may appeal to the circuit court of the county in
114 which the principal office of the municipality is located in the
115 manner provided for appeals of judgments or decisions of municipal
116 authorities as set forth in Section 11-51-75, Mississippi Code of
117 1972.

118 SECTION 7. Whenever the corporate boundaries of a
119 municipality shall be enlarged under to Sections 1 through 8 of
120 House Bill No. _____, 1999 Regular Session, the municipality shall,
121 within thirty (30) days after the effective date of such
122 ordinance, if no appeal is taken therefrom, forward to the
123 Secretary of State a certified copy of such ordinance, which shall
124 be filed in the Office of the Secretary of State and shall remain
125 a permanent record thereof. If an appeal is taken from such
126 ordinance and the ordinance is affirmed, then the certified copy
127 thereof shall be forwarded to the Secretary of State within ten
128 (10) days after receipt of the mandate from the court notifying
129 the municipality of such affirmance.

130 SECTION 8. Whenever the corporate boundaries of a
131 municipality shall be enlarged under Sections 1 through 8 of House
132 Bill No. _____, 1999 Regular Session, the municipality shall
133 furnish to the chancery clerk of the county in which the
134 municipality is located a map or plat of the boundaries of the
135 municipality as altered. The map or plat shall be recorded in the

136 official plat book of the county.

137 SECTION 9. Section 21-1-27, Mississippi Code of 1972, is
138 amended as follows:

139 21-1-27. The limits and boundaries of existing cities, towns
140 and villages shall remain as now established until altered in the
141 manner hereinafter provided. When any municipality shall desire
142 to enlarge or contract the boundaries thereof by adding thereto
143 adjacent unincorporated territory or excluding therefrom any part
144 of the incorporated territory of such municipality, the governing
145 authorities of such municipality shall pass an ordinance defining
146 with certainty the territory proposed to be included in or
147 excluded from the corporate limits, and also defining the entire
148 boundary as changed. In the event the municipality desires to
149 enlarge such boundaries, such ordinance shall in general terms
150 describe the proposed improvements to be made in the annexed
151 territory, the manner and extent of such improvements, and the
152 approximate time within which such improvements are to be made;
153 such ordinance shall also contain a statement of the municipal or
154 public services which such municipality proposes to render in such
155 annexed territory. In the event the municipality shall desire to
156 contract its boundaries, such ordinance shall contain a statement
157 of the reasons for such contraction and a statement showing
158 whereby the public convenience and necessity would be served
159 thereby.

160 This section shall not apply to a municipality enlarging its
161 boundaries under Sections 1 through 8 of House Bill No. _____, 1999
162 Regular Session.

163 SECTION 10. Section 21-1-29, Mississippi Code of 1972, is
164 amended as follows:

165 21-1-29. When any such ordinance shall be passed by the
166 municipal authorities, such municipal authorities shall file a
167 petition in the chancery court of the county in which such
168 municipality is located; however, when a municipality wishes to

169 annex or extend its boundaries across and into an adjoining county
170 such municipal authorities shall file a petition in the chancery
171 court of the county in which such territory is located. The
172 petition shall recite the fact of the adoption of such ordinance
173 and shall pray that the enlargement or contraction of the
174 municipal boundaries, as the case may be, shall be ratified,
175 approved and confirmed by the court. There shall be attached to
176 such petition, as exhibits thereto, a certified copy of the
177 ordinance adopted by the municipal authorities and a map or plat
178 of the municipal boundaries as they will exist in event such
179 enlargement or contraction becomes effective.

180 This section shall not apply to a municipality enlarging its
181 boundaries under Sections 1 through 8 of House Bill No. _____, 1999
182 Regular Session.

183 SECTION 11. Section 21-1-31, Mississippi Code of 1972, is
184 amended as follows:

185 21-1-31. Upon the filing of such petition and upon
186 application therefor by the petitioner, the chancellor shall fix a
187 date certain, either in term time or in vacation, when a hearing
188 on said petition will be held, and notice thereof shall be given
189 in the same manner and for the same length of time as is provided
190 in Section 21-1-15 with regard to the creation of municipal
191 corporations, and all parties interested in, affected by, or being
192 aggrieved by said proposed enlargement or contraction shall have
193 the right to appear at such hearing and present their objection to
194 such proposed enlargement or contraction. However, in all cases
195 of the enlargement of municipalities where any of the territory
196 proposed to be incorporated is located within three (3) miles of
197 another existing municipality, then such other existing
198 municipality shall be made a party defendant to said petition and
199 shall be served with process in the manner provided by law, which
200 process shall be served at least thirty (30) days prior to the
201 date set for the hearing.

202 This section shall not apply to a municipality enlarging its
203 boundaries under Sections 1 through 8 of House Bill No. _____, 1999
204 Regular Session.

205 SECTION 12. Section 21-1-33, Mississippi Code of 1972, is
206 amended as follows:

207 21-1-33. If the chancellor finds from the evidence presented
208 at such hearing that the proposed enlargement or contraction is
209 reasonable and is required by the public convenience and necessity
210 and, in the event of an enlargement of a municipality, that
211 reasonable public and municipal services will be rendered in the
212 annexed territory within a reasonable time, the chancellor shall
213 enter a decree approving, ratifying and confirming the proposed
214 enlargement or contraction, and describing the boundaries of the
215 municipality as altered. In so doing the chancellor shall have
216 the right and the power to modify the proposed enlargement or
217 contraction by decreasing the territory to be included in or
218 excluded from such municipality, as the case may be. If the
219 chancellor shall find from the evidence that the proposed
220 enlargement or contraction, as the case may be, is unreasonable
221 and is not required by the public convenience and necessity, then
222 he shall enter a decree denying such enlargement or contraction.
223 In any event, the decree of the chancellor shall become effective
224 after the passage of ten (10) days from the date thereof or, in
225 event an appeal is taken therefrom, within ten (10) days from the
226 final determination of such appeal. In any proceeding under this
227 section the burden shall be upon the municipal authorities to show
228 that the proposed enlargement or contraction is reasonable.

229
230 This section shall not apply to a municipality enlarging its
231 boundaries under Sections 1 through 8 of House Bill No. _____, 1999
232 Regular Session.

233 SECTION 13. Section 21-1-35, Mississippi Code of 1972, is
234 amended as follows:

235 21-1-35. In the event no objection is made to the petition
236 for the enlargement or contraction of the municipal boundaries,
237 the municipality shall be taxed with all costs of the proceedings.
238 In the event objection is made, such costs may be taxed in such
239 manner as the chancellor shall determine to be equitable pursuant
240 to the Mississippi Rules of Civil Procedure. In the event of an
241 appeal from the judgment of the chancellor, the costs incurred in
242 the appeal shall be taxed against the appellant if the judgment be
243 affirmed, and against the appellee if the judgment be reversed.

244 This section shall not apply to a municipality enlarging its
245 boundaries under Sections 1 through 8 of House Bill No. _____, 1999
246 Regular Session.

247 SECTION 14. Section 21-1-37, Mississippi Code of 1972, is
248 amended as follows:

249 21-1-37. If the municipality or any other interested person
250 who was a party to the proceedings in the chancery court be
251 aggrieved by the decree of the chancellor, then such municipality
252 or other person may prosecute an appeal therefrom within the time
253 and in the manner and with like effect as is provided in Section
254 21-1-21 in the case of appeals from the decree of the chancellor
255 with regard to the creation of a municipal corporation.

256 This section shall not apply to a municipality enlarging its
257 boundaries under Sections 1 through 8 of House Bill No. _____, 1999
258 Regular Session.

259 SECTION 15. Section 21-1-39, Mississippi Code of 1972, is
260 amended as follows:

261 21-1-39. Whenever the corporate limits of any municipality
262 shall be enlarged or contracted, as herein provided, the chancery
263 clerk shall, after the expiration of ten (10) days from the date
264 of such decree if no appeal be taken therefrom, forward to the
265 Secretary of State a certified copy of such decree, which shall be
266 filed in the office of the Secretary of State and shall remain a
267 permanent record thereof. In the event an appeal be taken from

268 such decree and such decree is affirmed, then the certified copy
269 thereof shall be forwarded to the Secretary of State within ten
270 (10) days after receipt of the mandate from the Supreme Court
271 notifying the clerk of such affirmance.

272 This section shall not apply to a municipality enlarging its
273 boundaries under Sections 1 through 8 of House Bill No. _____, 1999
274 Regular Session.

275 SECTION 16. Section 21-1-41, Mississippi Code of 1972, is
276 amended as follows:

277 21-1-41. In all cases where the limits of a municipality are
278 enlarged or contracted the municipal authorities shall furnish to
279 the chancery clerk a map or plat of the boundaries of the
280 municipality as altered. Such map or plat shall be recorded in
281 the official plat book of the county.

282 This section shall not apply to a municipality enlarging its
283 boundaries under Sections 1 through 8 of House Bill No. _____, 1999
284 Regular Session.

285 SECTION 17. Section 21-1-65, Mississippi Code of 1972, is
286 amended as follows:

287 21-1-65. This chapter shall apply to and govern the
288 creation, enlargement, contraction, and abolition of all
289 municipalities of this state hereafter, whether such municipality
290 be operating under the code charter, under the commission form of
291 government, under the council form of government, under the
292 council-manager form of government, or under a special charter,
293 and regardless of whether a different or special procedure be
294 provided by any such special charter. However, Sections 21-1-27,
295 21-1-29, 21-1-31, 21-1-33, 21-1-35, 21-1-37, 21-1-39 and 21-1-41,
296 shall not apply to a municipality enlarging its boundaries under
297 Sections 1 through 8 of House Bill No. _____, 1999 Regular Session.

298 SECTION 18. This act shall take effect and be in force from
299 and after its passage.