

By: Denny

To: Municipalities

HOUSE BILL NO. 1363

1 AN ACT TO AMEND SECTION 21-17-1, MISSISSIPPI CODE OF 1972, TO  
2 AUTHORIZE GOVERNING AUTHORITIES OF MUNICIPALITIES TO PERFORM  
3 CERTAIN FUNCTION, EXERCISE CERTAIN DUTIES AND ADMINISTER CERTAIN  
4 PROGRAMS CREATED OR ESTABLISHED BY FEDERAL LAW; AND FOR RELATED  
5 PURPOSES.

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

7 SECTION 1. Section 21-17-1, Mississippi Code of 1972, is  
8 amended as follows:[BD1]

9 21-17-1. Every municipality of this state shall be a  
10 municipal corporation and shall have power to sue and be sued; to  
11 purchase and hold real estate, either within or without the  
12 corporate limits, for all proper municipal purposes, including  
13 parks, cemeteries, hospitals, schoolhouses, houses of correction,  
14 waterworks, electric lights, sewers and other proper municipal  
15 purposes; to purchase and hold personal property for all proper  
16 municipal purposes; to acquire equipment and machinery by  
17 lease-purchase agreement and to pay interest thereon, if  
18 contracted, when needed for proper municipal purposes; to sell and  
19 convey any real and personal property owned by it, and make such  
20 order respecting the same as may be deemed conducive to the best  
21 interest of the municipality, and exercise jurisdiction over the  
22 same.

23 In case any of the real property belonging to a municipality  
24 shall cease to be used for municipal purposes, the governing  
25 authorities of the municipality may sell, convey or lease the same  
26 on such terms as the municipal authorities may elect. In case of  
27 a sale on a credit, the municipality shall charge appropriate

28 interest as contracted and shall have a lien on the same for the  
29 purchase money, as against all persons, until paid and may enforce  
30 the lien as in such cases provided by law. The deed of conveyance  
31 in such cases shall be executed in the name of the municipality by  
32 the governing authorities of the municipality pursuant to their  
33 order entered on the minutes of their meetings. In any sale or  
34 conveyance of real property, the municipality shall retain all  
35 mineral rights that it owns, together with the right of ingress  
36 and egress to remove same. Before any such lease, deed or  
37 conveyance is executed, the governing authorities of the  
38 municipality shall publish at least once each week for three (3)  
39 consecutive weeks, in a public newspaper of the municipality in  
40 which the real property is located, or if no newspaper be  
41 published as such, then in a newspaper having general circulation  
42 therein, the intention to lease or sell, as the case may be, the  
43 municipally owned real property and to accept sealed competitive  
44 bids for the leasing or sale. The governing authorities of the  
45 municipality shall thereafter accept bids for the lease or sale  
46 and shall award the lease or sale to the highest bidder in the  
47 manner provided by law. However, whenever the governing  
48 authorities of the municipality shall find and determine, by  
49 resolution duly and lawfully adopted and spread upon its minutes  
50 (a) that any municipally owned real property is no longer needed  
51 for municipal or related purposes and is not to be used in the  
52 operation of the municipality, (b) that the sale of such property  
53 in the manner otherwise provided by law is not necessary or  
54 desirable for the financial welfare of the municipality, and (c)  
55 that the use of such property for the purpose for which it is to  
56 be sold, conveyed or leased will promote and foster the  
57 development and improvement of the community in which it is  
58 located and the civic, social, educational, cultural, moral,  
59 economic or industrial welfare thereof, the governing authorities  
60 of the municipality shall be authorized and empowered, in their  
61 discretion, to sell, convey or lease same for any of the purposes  
62 set forth herein without having to advertise for and accept  
63 competitive bids. In any case in which a municipality proposes to  
64 sell, convey or lease real property under the provisions of this

65 section without advertising for and accepting competitive bids,  
66 consideration for the purchase, conveyance or lease of the  
67 property shall be not less than the average of the fair market  
68 price for such property as determined by three (3) professional  
69 property appraisers selected by the municipality and approved by  
70 the purchaser or lessee. Appraisal fees shall be shared equally  
71 by the municipality and the purchaser or lessee.

72 Whenever the governing authorities of the municipality shall  
73 find and determine by resolution duly and lawfully adopted and  
74 spread upon the minutes that municipally owned real property is  
75 not used for municipal purposes and therefore surplus as set forth  
76 hereinabove:

77 (a) The governing authority may donate such lands to a  
78 bona fide not-for-profit civic or eleemosynary corporation  
79 organized and existing under the laws of the State of Mississippi  
80 and granted tax exempt status by the Internal Revenue Service and  
81 may donate such lands and necessary funds related thereto to the  
82 public school district in which the land is situated for the  
83 purposes set forth herein. Any deed or conveyance executed  
84 pursuant hereto shall contain a clause of reverter providing that  
85 the bona fide not-for-profit corporation or public school district  
86 may hold title to such lands only so long as they are continued to  
87 be used for the civic, social, educational, cultural, moral,  
88 economic or industrial welfare of the community, and that title  
89 shall revert to the municipality in the event of the cessation of  
90 such use for a period of two (2) years. In any such deed or  
91 conveyance, the municipality shall retain all mineral rights that  
92 it owns, together with the right of ingress and egress to remove  
93 same;

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

101 (c) In the event the governing authority does not wish

102 to donate title to such lands to the bona fide not-for-profit or  
103 eleemosynary corporation, but wishes to retain title to the lands,  
104 the governing authority may lease the lands to a bona fide  
105 not-for-profit corporation described in paragraph (a) or (b) for  
106 less than fair market value.

107 Every municipality shall also be authorized and empowered to  
108 loan to private persons or entities, whether organized for profit  
109 or nonprofit, funds received from the United States Department of  
110 Housing and Urban Development (HUD) under an urban development  
111 action grant or a community development block grant under the  
112 Housing and Community Development Act of 1974 (Public Law 93-383),  
113 as amended, and to charge interest thereon if contracted, provided  
114 that no such loan shall include any funds from any revenues other  
115 than the funds from the United States Department of Housing and  
116 Urban Development; to make all contracts and do all other acts in  
117 relation to the property and affairs of the municipality necessary  
118 to the exercise of its governmental, corporate and administrative  
119 powers; and to exercise such other or further powers as are  
120 otherwise conferred by law.

121 The governing authorities of any municipality may contract  
122 with a private attorney or private collection agent or agency to  
123 collect any type of delinquent payment owed to the municipality  
124 including, but not limited to, past due fees and fines. Any such  
125 contract debt may provide for payment contingent upon successful  
126 collection efforts or payment based upon a percentage of the  
127 delinquent amount collected; however, the entire amount of all  
128 delinquent payments collected shall be remitted to the  
129 municipality and shall not be reduced by any collection costs or  
130 fees. Any private attorney or private collection agent or agency  
131 contracting with the municipality under the provisions of this  
132 paragraph shall give bond or other surety payable to the  
133 municipality in such amount as the governing authorities of the  
134 municipality deem sufficient. Any private attorney with whom the

135 municipality contracts under the provisions of this paragraph must  
136 be a member in good standing of the Mississippi Bar. Any private  
137 collection agent or agency with whom the municipality contracts  
138 under the provisions of this paragraph must meet all licensing  
139 requirements for doing business in the State of Mississippi.  
140 Neither the municipality nor any officer or employee of the  
141 municipality shall be liable, civilly or criminally, for any  
142 wrongful or unlawful act or omission of any person or business  
143 with whom the municipality has contracted under the provisions of  
144 this paragraph. The Mississippi Department of Audit shall  
145 establish rules and regulations for use by municipalities in  
146 contracting with persons or businesses under the provisions of  
147 this paragraph.

148 In addition to such authority as is otherwise granted under  
149 this section, the governing authorities of any municipality may  
150 expend funds necessary to maintain and repair, and to purchase  
151 liability insurance, tags and decals for, any personal property  
152 acquired under the Federal Excess Personal Property Program that  
153 is used by the local volunteer fire department.

154 The governing authorities of any municipality may, in its  
155 discretion, donate personal property or funds to the public school  
156 district or districts located in the municipality for the  
157 promotion of educational programs of the district or districts  
158 within the municipality.

159 The governing authorities of any municipality may perform and  
160 exercise any duty, responsibility or function, may enter into  
161 agreements and contracts, may provide and deliver any services or  
162 assistance, and may receive, expend and administer any grants,  
163 gifts, matching funds, loans or other monies, in accordance with  
164 and as may be authorized by any federal law, rule or regulation  
165 creating, establishing or providing for any program, activity or  
166 service. The provisions of this paragraph shall not be construed  
167 as authorizing any municipality, the governing authorities of any

168 municipality or any member of the governing authorities to perform  
169 any function or activity that is specifically prohibited under the  
170 laws of this state or as granting any authority in addition to or  
171 in conflict with the provisions of any federal law, rule or  
172 regulation.

173         The powers conferred by this section shall be in addition and  
174 supplemental to the powers conferred by any other law, and nothing  
175 contained in this section shall be construed to prohibit, or to  
176 prescribe conditions concerning, any practice or practices  
177 authorized under any other law.

178         SECTION 2. This act shall take effect and be in force from  
179 and after July 1, 2000.