

By: Smith, Horhn

To: Municipalities

SENATE BILL NO. 2412

1 AN ACT TO AMEND SECTION 21-17-1, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE MUNICIPALITIES TO ESTABLISH AN EMPLOYER-ASSISTED HOUSING
3 PROGRAM; AND FOR RELATED PURPOSES.

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

5 SECTION 1. Section 21-17-1, Mississippi Code of 1972, is
6 amended as follows:[CSQ1]

7 21-17-1. (1) Every municipality of this state shall be a
8 municipal corporation and shall have power to sue and be sued; to
9 purchase and hold real estate, either within or without the
10 corporate limits, for all proper municipal purposes, including
11 parks, cemeteries, hospitals, schoolhouses, houses of correction,
12 waterworks, electric lights, sewers and other proper municipal
13 purposes; to purchase and hold personal property for all proper
14 municipal purposes; to acquire equipment and machinery by
15 lease-purchase agreement and to pay interest thereon, if
16 contracted, when needed for proper municipal purposes; to sell and
17 convey any real and personal property owned by it, and make such
18 order respecting the same as may be deemed conducive to the best
19 interest of the municipality, and exercise jurisdiction over the
20 same.

21 (2) In case any of the real property belonging to a
22 municipality shall cease to be used for municipal purposes, the
23 governing authorities of the municipality may sell, convey or
24 lease the same on such terms as the municipal authorities may
25 elect. In case of a sale on a credit, the municipality shall
26 charge appropriate interest as contracted and shall have a lien on

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

64 for and accepting competitive bids, consideration for the
65 purchase, conveyance or lease of the property shall be not less
66 than the average of the fair market price for such property as
67 determined by three (3) professional property appraisers selected
68 by the municipality and approved by the purchaser or lessee.
69 Appraisal fees shall be shared equally by the municipality and the
70 purchaser or lessee.

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

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

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

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

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

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

120 (5) (a) Municipalities are authorized to establish an
121 employer-assisted housing program for the purpose of providing
122 funds to employees to be used by eligible employees toward the
123 purchase of a home. This assistance may be applied toward the
124 down payment, closing costs, or any other fees or costs associated
125 with the purchase of a home. The housing assistance may be in the
126 form of a grant, forgivable loan or a repayable loan. The program
127 shall be administered by the municipality in conjunction with
128 Fannie Mae. A municipality may contract with one or more public
129 or private entities to provide assistance in implementing and
130 administering the program, and shall adopt rules and regulations
131 regarding the eligibility of municipality for the program and for
132 the implementation and administration of the program.

133 (b) Participation in the program shall be available to

134 any eligible municipal employee as determined by the municipality.
135 Any person who receives financial assistance under the program
136 shall be required to purchase a house and reside within the
137 geographic boundaries determined by the municipality.

138 (c) If the assistance is structured as a forgivable
139 loan, the participating employee must remain as an employee with
140 the municipality for an agreed-upon period of time, usually equal
141 to the term of the loan, in order to have the loan forgiven. The
142 forgiveness structure will be determined by the municipality with
143 the municipality to make the determination as to the amount of
144 assistance and repayment terms it implements for the program.

145 (d) This subsection (5) shall stand repealed on July 1,
146 2005.

147 (6) The governing authorities of any municipality may
148 contract with a private attorney or private collection agent or
149 agency to collect any type of delinquent payment owed to the
150 municipality including, but not limited to, past due fees and
151 finances. Any such contract debt may provide for payment contingent
152 upon successful collection efforts or payment based upon a
153 percentage of the delinquent amount collected; however, the entire
154 amount of all delinquent payments collected shall be remitted to
155 the municipality and shall not be reduced by any collection costs
156 or fees. Any private attorney or private collection agent or
157 agency contracting with the municipality under the provisions of
158 this paragraph shall give bond or other surety payable to the
159 municipality in such amount as the governing authorities of the
160 municipality deem sufficient. Any private attorney with whom the
161 municipality contracts under the provisions of this paragraph must
162 be a member in good standing of The Mississippi Bar. Any private
163 collection agent or agency with whom the municipality contracts
164 under the provisions of this paragraph must meet all licensing
165 requirements for doing business in the State of Mississippi.
166 Neither the municipality nor any officer or employee of the

167 municipality shall be liable, civilly or criminally, for any
168 wrongful or unlawful act or omission of any person or business
169 with whom the municipality has contracted under the provisions of
170 this paragraph. The Mississippi Department of Audit shall
171 establish rules and regulations for use by municipalities in
172 contracting with persons or businesses under the provisions of
173 this paragraph.

174 (7) In addition to such authority as is otherwise granted
175 under this section, the governing authorities of any municipality
176 may expend funds necessary to maintain and repair, and to purchase
177 liability insurance, tags and decals for, any personal property
178 acquired under the Federal Excess Personal Property Program that
179 is used by the local volunteer fire department.

180 (8) The governing authorities of any municipality may, in
181 its discretion, donate personal property or funds to the public
182 school district or districts located in the municipality for the
183 promotion of educational programs of the district or districts
184 within the municipality.

185 (9) The powers conferred by this section shall be in
186 addition and supplemental to the powers conferred by any other
187 law, and nothing contained in this section shall be construed to
188 prohibit, or to prescribe conditions concerning, any practice or
189 practices authorized under any other law.

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