

By: Jordan

To: Municipalities

SENATE BILL NO. 2581

1 AN ACT TO AMEND SECTION 21-17-1, MISSISSIPPI CODE OF 1972, TO  
2 CLARIFY THE POWERS OF MUNICIPALITIES BY MAKING A TECHNICAL  
3 CORRECTION; 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. 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 In case any of the real property belonging to a municipality

22 shall cease to be used for municipal purposes, the governing  
23 authorities of the municipality may sell, convey or lease the same  
24 on such terms as the municipal authorities may elect. In case of  
25 a sale on a credit, the municipality shall charge appropriate  
26 interest as contracted and shall have a lien on the same for the  
27 purchase money, as against all persons, until paid and may enforce  
28 the lien as in such cases provided by law. The deed of conveyance  
29 in such cases shall be executed in the name of the municipality by  
30 the governing authorities of the municipality pursuant to their  
31 order entered on the minutes of their meetings. In any sale or  
32 conveyance of real property, the municipality shall retain all  
33 mineral rights that it owns, together with the right of ingress  
34 and egress to remove same. Before any such lease, deed or  
35 conveyance is executed, the governing authorities of the  
36 municipality shall publish at least once each week for three (3)  
37 consecutive weeks, in a public newspaper of the municipality in  
38 which the real property is located, or if no newspaper be  
39 published as such, then in a newspaper having general circulation  
40 therein, the intention to lease or sell, as the case may be, the  
41 municipally owned real property and to accept sealed competitive  
42 bids for the leasing or sale. The governing authorities of the  
43 municipality shall thereafter accept bids for the lease or sale  
44 and shall award the lease or sale to the highest bidder in the  
45 manner provided by law. However, whenever the governing  
46 authorities of the municipality shall find and determine, by  
47 resolution duly and lawfully adopted and spread upon its minutes  
48 (a) that any municipally owned real property is no longer needed  
49 for municipal or related purposes and is not to be used in the  
50 operation of the municipality, (b) that the sale of such property  
51 in the manner otherwise provided by law is not necessary or  
52 desirable for the financial welfare of the municipality, and (c)

53 that the use of such property for the purpose for which it is to  
54 be sold, conveyed or leased will promote and foster the  
55 development and improvement of the community in which it is  
56 located and the civic, social, educational, cultural, moral,  
57 economic or industrial welfare thereof, the governing authorities  
58 of the municipality shall be authorized and empowered, in their  
59 discretion, to sell, convey or lease same for any of the purposes  
60 set forth herein without having to advertise for and accept  
61 competitive bids. In any case in which a municipality proposes to  
62 sell, convey or lease real property under the provisions of this  
63 section without advertising for and accepting competitive bids,  
64 consideration for the purchase, conveyance or lease of the  
65 property shall be not less than the average of the fair market  
66 price for such property as determined by three (3) professional  
67 property appraisers selected by the municipality and approved by  
68 the purchaser or lessee. Appraisal fees shall be shared equally  
69 by the municipality and the purchaser or lessee.

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

75 (a) The governing authority may donate such lands to a  
76 bona fide not-for-profit civic or eleemosynary corporation  
77 organized and existing under the laws of the State of Mississippi  
78 and granted tax exempt status by the Internal Revenue Service and  
79 may donate such lands and necessary funds related thereto to the  
80 public school district in which the land is situated for the  
81 purposes set forth herein. Any deed or conveyance executed  
82 pursuant hereto shall contain a clause of reverter providing that  
83 the bona fide not-for-profit corporation or public school district

84 may hold title to such lands only so long as they are continued to  
85 be used for the civic, social, educational, cultural, moral,  
86 economic or industrial welfare of the community, and that title  
87 shall revert to the municipality in the event of the cessation of  
88 such use for a period of two (2) years. In any such deed or  
89 conveyance, the municipality shall retain all mineral rights that  
90 it owns, together with the right of ingress and egress to remove  
91 same;

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

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

105 Every municipality shall also be authorized and empowered to  
106 loan to private persons or entities, whether organized for profit  
107 or nonprofit, funds received from the United States Department of  
108 Housing and Urban Development (HUD) under an urban development  
109 action grant or a community development block grant under the  
110 Housing and Community Development Act of 1974 (Public Law 93-383),  
111 as amended, and to charge interest thereon if contracted, provided

112 that no such loan shall include any funds from any revenues other  
113 than the funds from the United States Department of Housing and  
114 Urban Development; to make all contracts and do all other acts in  
115 relation to the property and affairs of the municipality necessary  
116 to the exercise of its governmental, corporate and administrative  
117 powers; and to exercise such other or further powers as are  
118 otherwise conferred by law.

119       The governing authorities of any municipality may contract  
120 with a private attorney or private collection agent or agency to  
121 collect any type of delinquent payment owed to the municipality  
122 including, but not limited to, past due fees and fines. Any such  
123 contract debt may provide for payment contingent upon successful  
124 collection efforts or payment based upon a percentage of the  
125 delinquent amount collected; however, the entire amount of all  
126 delinquent payments collected shall be remitted to the  
127 municipality and shall not be reduced by any collection costs or  
128 fees. Any private attorney or private collection agent or agency  
129 contracting with the municipality under the provisions of this  
130 paragraph shall give bond or other surety payable to the  
131 municipality in such amount as the governing authorities of the  
132 municipality deem sufficient. Any private attorney with whom the  
133 municipality contracts under the provisions of this paragraph must  
134 be a member in good standing of the Mississippi Bar. Any private  
135 collection agent or agency with whom the municipality contracts  
136 under the provisions of this paragraph must meet all licensing  
137 requirements for doing business in the State of Mississippi.  
138 Neither the municipality nor any officer or employee of the  
139 municipality shall be liable, civilly or criminally, for any

140 wrongful or unlawful act or omission of any person or business  
141 with whom the municipality has contracted under the provisions of  
142 this paragraph. The Mississippi Department of Audit shall  
143 establish rules and regulations for use by municipalities in  
144 contracting with persons or businesses under the provisions of  
145 this paragraph.

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

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

157 The powers conferred by this section shall be in addition and  
158 supplemental to the powers conferred by any other law, and nothing  
159 contained in this section shall be construed to prohibit, or to  
160 prescribe conditions concerning, any practice or practices  
161 authorized under any other law.

162 SECTION 2. This act shall take effect and be in force from  
163 and after its passage.