

By: Jordan

To: Municipalities

SENATE BILL NO. 2581
(As Passed the Senate)

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.