

By: Harden

To: Municipalities

SENATE BILL NO. 2635

1 AN ACT TO AMEND SECTION 21-17-1, MISSISSIPPI CODE OF 1972, TO  
2 AUTHORIZE MUNICIPALITIES TO EXPEND FUNDS TO MATCH FEDERAL OR STATE  
3 FUNDING FOR ANY PROGRAMS ADMINISTERED BY THE STATE OR FEDERAL  
4 GOVERNMENT; AND FOR RELATED PURPOSES.

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

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

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

22 (2) In case any of the real property belonging to a

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

54 such property for the purpose for which it is to be sold, conveyed  
55 or leased will promote and foster the development and improvement  
56 of the community in which it is located and the civic, social,  
57 educational, cultural, moral, economic or industrial welfare  
58 thereof, the governing authority 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 authority 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  
102 civic or eleemosynary corporation, but wishes to retain title to  
103 the lands, the governing authority may lease the lands to a bona  
104 fide not-for-profit corporation described in paragraph (a) or (b)  
105 for 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) The governing authority of any municipality may contract  
121 with a private attorney or private collection agent or agency to  
122 collect any type of delinquent payment owed to the municipality  
123 including, but not limited to, past due fees and fines. Any such  
124 contract debt may provide for payment contingent upon successful  
125 collection efforts or payment based upon a percentage of the  
126 delinquent amount collected; however, the entire amount of all  
127 delinquent payments collected shall be remitted to the  
128 municipality and shall not be reduced by any collection costs or  
129 fees. Any private attorney or private collection agent or agency  
130 contracting with the municipality under the provisions of this  
131 paragraph shall give bond or other surety payable to the  
132 municipality in such amount as the governing authority of the  
133 municipality deems sufficient. Any private attorney with whom the  
134 municipality contracts under the provisions of this paragraph must  
135 be a member in good standing of the Mississippi Bar. Any private  
136 collection agent or agency with whom the municipality contracts  
137 under the provisions of this paragraph must meet all licensing  
138 requirements for doing business in the State of Mississippi.  
139 Neither the municipality nor any officer or employee of the  
140 municipality shall be liable, civilly or criminally, for any

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

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

153       (7) The governing authority of any municipality \* \* \*, in  
154 its discretion, may donate personal property or funds to the  
155 public school district or districts located in the municipality  
156 for the promotion of educational programs of the district or  
157 districts within the municipality.

158       (8) The governing authority of any municipality, in its  
159 discretion, may expend funds to match any state or federal funding  
160 for any program administered by the State of Mississippi or the  
161 United States government.

162       (9) The powers conferred by this section shall be in  
163 addition and supplemental to the powers conferred by any other  
164 law, and nothing contained in this section shall be construed to  
165 prohibit, or to prescribe conditions concerning, any practice or  
166 practices authorized under any other law.

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