HOUSE BILL NO. 557

AN ACT TO AMEND SECTION 21-17-1, MISSISSIPPI CODE OF 1972, TO AUTHORIZE MUNICIPALLY OWNED ELECTRIC UTILITIES, WITH THE WRITTEN PERMISSION OF THE PRIVATE LANDOWNER, TO CLEAR CERTAIN OBSTRUCTIONS NEAR THE SERVICE LINES ON SUCH PRIVATE LAND; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 21-17-1, Mississippi Code of 1972, is amended as follows:

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

In case any of the real property belonging to a municipality shall cease to be used for municipal purposes, the governing authorities of the municipality may sell, convey or lease the same on such terms as the municipal authorities may elect. In case of a sale on a credit, the municipality shall charge appropriate interest as contracted and shall have a lien on the same for the
purchase money, as against all persons, until paid and may enforce
the lien as in such cases provided by law. The deed of conveyance
in such cases shall be executed in the name of the municipality by
the governing authorities of the municipality pursuant to their
order entered on the minutes of their meetings. In any sale or
conveyance of real property, the municipality shall retain all
mineral rights that it owns, together with the right of ingress
and egress to remove same. Before any such lease, deed or
conveyance is executed, the governing authorities of the
municipality shall publish at least once each week for three (3)
consecutive weeks, in a public newspaper of the municipality in
which the real property is located, or if no newspaper be
published as such, then in a newspaper having general circulation
therein, the intention to lease or sell, as the case may be, the
municipally owned real property and to accept sealed competitive
bids for the leasing or sale. The governing authorities of the
municipality shall thereafter accept bids for the lease or sale
and shall award the lease or sale to the highest bidder in the
manner provided by law. However, whenever the governing
authorities of the municipality shall find and determine, by
resolution duly and lawfully adopted and spread upon its minutes
(a) that any municipally owned real property is no longer needed
for municipal or related purposes and is not to be used in the
operation of the municipality, (b) that the sale of such property
in the manner otherwise provided by law is not necessary or
desirable for the financial welfare of the municipality, and (c)
that the use of such property for the purpose for which it is to
be sold, conveyed or leased will promote and foster the
development and improvement of the community in which it is
located and the civic, social, educational, cultural, moral,
ecological or industrial welfare thereof, the governing authorities
of the municipality shall be authorized and empowered, in their
discretion, to sell, convey or lease same for any of the purposes
set forth herein without having to advertise for and accept competitive bids. In any case in which a municipality proposes to sell, convey or lease real property under the provisions of this section without advertising for and accepting competitive bids, consideration for the purchase, conveyance or lease of the property shall be not less than the average of the fair market price for such property as determined by three (3) professional property appraisers selected by the municipality and approved by the purchaser or lessee. Appraisal fees shall be shared equally by the municipality and the purchaser or lessee.

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

(a) The governing authority may donate such lands to a bona fide not-for-profit civic or eleemosynary corporation organized and existing under the laws of the State of Mississippi and granted tax exempt status by the Internal Revenue Service and may donate such lands and necessary funds related thereto to the public school district in which the land is situated for the purposes set forth herein. Any deed or conveyance executed pursuant hereto shall contain a clause of reverter providing that the bona fide not-for-profit corporation or public school district may hold title to such lands only so long as they are continued to be used for the civic, social, educational, cultural, moral, economic or industrial welfare of the community, and that title shall revert to the municipality in the event of the cessation of such use for a period of two (2) years. In any such deed or conveyance, the municipality shall retain all mineral rights that it owns, together with the right of ingress and egress to remove same;
(b) The governing authority may donate such lands to a bona fide not-for-profit corporation (such as Habitat for Humanity) which is primarily engaged in the construction of housing for persons who otherwise can afford to live only in substandard housing. In any such deed or conveyance, the municipality shall retain all mineral rights that it owns, together with the right of ingress and egress to remove same;

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

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

The governing authorities of any municipality may contract with a private attorney or private collection agent or agency to collect any type of delinquent payment owed to the municipality including, but not limited to, past due fees and fines. Any such contract debt may provide for payment contingent upon successful collection efforts or payment based upon a percentage of the
delinquent amount collected; however, the entire amount of all delinquent payments collected shall be remitted to the municipality and shall not be reduced by any collection costs or fees. Any private attorney or private collection agent or agency contracting with the municipality under the provisions of this paragraph shall give bond or other surety payable to the municipality in such amount as the governing authorities of the municipality deem sufficient. Any private attorney with whom the municipality contracts under the provisions of this paragraph must be a member in good standing of The Mississippi Bar. Any private collection agent or agency with whom the municipality contracts under the provisions of this paragraph must meet all licensing requirements for doing business in the State of Mississippi.

Neither the municipality nor any officer or employee of the municipality shall be liable, civilly or criminally, for any wrongful or unlawful act or omission of any person or business with whom the municipality has contracted under the provisions of this paragraph. The State Fiscal Officer shall establish rules and regulations for use by municipalities in contracting with persons or businesses under the provisions of this paragraph. If a municipality uses its own employees to collect any type of delinquent payment owed to the municipality, then from and after July 1, 2000, the municipality may charge an additional fee for collection of the delinquent payment provided the payment has been delinquent for ninety (90) days. The collection fee may not exceed fifteen percent (15%) of the delinquent payment if the collection is made within this state and may not exceed twenty-five percent (25%) of the delinquent payment if the collection is made outside this state. In conducting collection of delinquent payments, the municipality may utilize credit cards or electronic fund transfers. The municipality may pay any service fees for the use of such methods of collection from the collection fee, but not from the delinquent payment. There shall
be due to the municipality from any person whose delinquent payment is collected under a contract executed as provided in this subsection an amount, in addition to the delinquent payment, of not to exceed twenty-five percent (25%) of the delinquent payment for collections made within this state, and not to exceed fifty percent (50%) of the delinquent payment for collections made outside of this state.

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

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

In addition to the authority to expend matching funds under Section 21-19-65, the governing authorities of any municipality, in their discretion, may expend municipal funds to match any state, federal or private funding for any program administered by the State of Mississippi, the United States government or any nonprofit organization that is exempt under 26 USCS Section 501(c)(3) from paying federal income tax.

The governing authorities of any municipality, in their discretion, with the landowner's written permission, may authorize a municipally owned electric utility to clear obstructions to the utility's service lines, including, but not limited to, removing or trimming dangerous tree limbs, on the property of such landowner up to a distance of ten (10) feet in diameter around the service lines.
The powers conferred by this section shall be in addition and supplemental to the powers conferred by any other law, and nothing contained in this section shall be construed to prohibit, or to prescribe conditions concerning, any practice or practices authorized under any other law.

SECTION 2. This act shall take effect and be in force from and after July 1, 2003.