

By: Representatives Miles, Ellis, Markham,
Ward

To: Municipalities

HOUSE BILL NO. 557

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

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

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

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

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



29 purchase money, as against all persons, until paid and may enforce
30 the lien as in such cases provided by law. The deed of conveyance
31 in such cases shall be executed in the name of the municipality by
32 the governing authorities of the municipality pursuant to their
33 order entered on the minutes of their meetings. In any sale or
34 conveyance of real property, the municipality shall retain all
35 mineral rights that it owns, together with the right of ingress
36 and egress to remove same. Before any such lease, deed or
37 conveyance is executed, the governing authorities of the
38 municipality shall publish at least once each week for three (3)
39 consecutive weeks, in a public newspaper of the municipality in
40 which the real property is located, or if no newspaper be
41 published as such, then in a newspaper having general circulation
42 therein, the intention to lease or sell, as the case may be, the
43 municipally owned real property and to accept sealed competitive
44 bids for the leasing or sale. The governing authorities of the
45 municipality shall thereafter accept bids for the lease or sale
46 and shall award the lease or sale to the highest bidder in the
47 manner provided by law. However, whenever the governing
48 authorities of the municipality shall find and determine, by
49 resolution duly and lawfully adopted and spread upon its minutes
50 (a) that any municipally owned real property is no longer needed
51 for municipal or related purposes and is not to be used in the
52 operation of the municipality, (b) that the sale of such property
53 in the manner otherwise provided by law is not necessary or
54 desirable for the financial welfare of the municipality, and (c)
55 that the use of such property for the purpose for which it is to
56 be sold, conveyed or leased will promote and foster the
57 development and improvement of the community in which it is
58 located and the civic, social, educational, cultural, moral,
59 economic or industrial welfare thereof, the governing authorities
60 of the municipality shall be authorized and empowered, in their
61 discretion, to sell, convey or lease same for any of the purposes



62 set forth herein without having to advertise for and accept
63 competitive bids. In any case in which a municipality proposes to
64 sell, convey or lease real property under the provisions of this
65 section without advertising for and accepting competitive bids,
66 consideration for the purchase, conveyance or lease of the
67 property shall be not less than the average of the fair market
68 price for such property as determined by three (3) professional
69 property appraisers selected by the municipality and approved by
70 the purchaser or lessee. Appraisal fees shall be shared equally
71 by the municipality and the purchaser or lessee.

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

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



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

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

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

121 The governing authorities of any municipality may contract
122 with a private attorney or private collection agent or agency to
123 collect any type of delinquent payment owed to the municipality
124 including, but not limited to, past due fees and fines. Any such
125 contract debt may provide for payment contingent upon successful
126 collection efforts or payment based upon a percentage of the



127 delinquent amount collected; however, the entire amount of all
128 delinquent payments collected shall be remitted to the
129 municipality and shall not be reduced by any collection costs or
130 fees. Any private attorney or private collection agent or agency
131 contracting with the municipality under the provisions of this
132 paragraph shall give bond or other surety payable to the
133 municipality in such amount as the governing authorities of the
134 municipality deem sufficient. Any private attorney with whom the
135 municipality contracts under the provisions of this paragraph must
136 be a member in good standing of The Mississippi Bar. Any private
137 collection agent or agency with whom the municipality contracts
138 under the provisions of this paragraph must meet all licensing
139 requirements for doing business in the State of Mississippi.
140 Neither the municipality nor any officer or employee of the
141 municipality shall be liable, civilly or criminally, for any
142 wrongful or unlawful act or omission of any person or business
143 with whom the municipality has contracted under the provisions of
144 this paragraph. The State Fiscal Officer shall establish rules
145 and regulations for use by municipalities in contracting with
146 persons or businesses under the provisions of this paragraph. If
147 a municipality uses its own employees to collect any type of
148 delinquent payment owed to the municipality, then from and after
149 July 1, 2000, the municipality may charge an additional fee for
150 collection of the delinquent payment provided the payment has been
151 delinquent for ninety (90) days. The collection fee may not
152 exceed fifteen percent (15%) of the delinquent payment if the
153 collection is made within this state and may not exceed
154 twenty-five percent (25%) of the delinquent payment if the
155 collection is made outside this state. In conducting collection
156 of delinquent payments, the municipality may utilize credit cards
157 or electronic fund transfers. The municipality may pay any
158 service fees for the use of such methods of collection from the
159 collection fee, but not from the delinquent payment. There shall



160 be due to the municipality from any person whose delinquent
161 payment is collected under a contract executed as provided in this
162 subsection an amount, in addition to the delinquent payment, of
163 not to exceed twenty-five percent (25%) of the delinquent payment
164 for collections made within this state, and not to exceed fifty
165 percent (50%) of the delinquent payment for collections made
166 outside of this state.

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

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

178 In addition to the authority to expend matching funds under
179 Section 21-19-65, the governing authorities of any municipality,
180 in their discretion, may expend municipal funds to match any
181 state, federal or private funding for any program administered by
182 the State of Mississippi, the United States government or any
183 nonprofit organization that is exempt under 26 USCS Section
184 501(c)(3) from paying federal income tax.

185 The governing authorities of any municipality, in their
186 discretion, with the landowner's written permission, may authorize
187 a municipally owned electric utility to clear obstructions to the
188 utility's service lines, including, but not limited to, removing
189 or trimming dangerous tree limbs, on the property of such
190 landowner up to a distance of ten (10) feet in diameter around the
191 service lines.



192 The powers conferred by this section shall be in addition and
193 supplemental to the powers conferred by any other law, and nothing
194 contained in this section shall be construed to prohibit, or to
195 prescribe conditions concerning, any practice or practices
196 authorized under any other law.

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

