

By: Representatives Franks, Miles,  
Montgomery, Ward

To: Municipalities;  
Appropriations

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 839

1 AN ACT TO PROVIDE THAT THE GOVERNING AUTHORITIES OF ANY  
2 MUNICIPALITY THAT OWNS AND OPERATES A GAS DISTRIBUTION SYSTEM MAY  
3 CONTRACT FOR THE PURCHASE OF THE SUPPLY OF NATURAL GAS FROM ANY  
4 PUBLIC NONPROFIT CORPORATION FOR UP TO 10 YEARS; TO AMEND SECTION  
5 21-17-1, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR  
6 RELATED PURPOSES.

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

8 **SECTION 1.** The governing authorities of any municipality  
9 that owns and operates a gas distribution system, as defined in  
10 Section 21-27-11 (b), is authorized to contract for the purchase  
11 of the supply of natural gas for a term of up to ten (10) years  
12 with any public nonprofit corporation, which is organized under  
13 the laws of this state or any other state.

14 **SECTION 2.** Section 21-17-1, Mississippi Code of 1972, is  
15 amended as follows:

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

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

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

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

85 (a) The governing authority may donate such lands to a  
86 bona fide not-for-profit civic or eleemosynary corporation  
87 organized and existing under the laws of the State of Mississippi  
88 and granted tax exempt status by the Internal Revenue Service and  
89 may donate such lands and necessary funds related thereto to the  
90 public school district in which the land is situated for the  
91 purposes set forth herein. Any deed or conveyance executed  
92 pursuant hereto shall contain a clause of reverter providing that  
93 the bona fide not-for-profit corporation or public school district  
94 may hold title to such lands only so long as they are continued to  
95 be used for the civic, social, educational, cultural, moral,

96 economic or industrial welfare of the community, and that title  
97 shall revert to the municipality in the event of the cessation of  
98 such use for a period of two (2) years. In any such deed or  
99 conveyance, the municipality shall retain all mineral rights that  
100 it owns, together with the right of ingress and egress to remove  
101 same;

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

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

115 (d) Nothing contained in this subsection (3) shall be  
116 construed to prohibit, restrict or to prescribe conditions with  
117 regard to the authority granted under Section 17-25-3.

118 (4) Every municipality shall also be authorized and  
119 empowered to loan to private persons or entities, whether  
120 organized for profit or nonprofit, funds received from the United  
121 States Department of Housing and Urban Development (HUD) under an  
122 urban development action grant or a community development block  
123 grant under the Housing and Community Development Act of 1974  
124 (Public Law 93-383), as amended, and to charge interest thereon if  
125 contracted, provided that no such loan shall include any funds  
126 from any revenues other than the funds from the United States  
127 Department of Housing and Urban Development; to make all contracts  
128 and do all other acts in relation to the property and affairs of

129 the municipality necessary to the exercise of its governmental,  
130 corporate and administrative powers; and to exercise such other or  
131 further powers as are otherwise conferred by law.

132 (5) The governing authorities of any municipality may  
133 contract with a private attorney or private collection agent or  
134 agency to collect any type of delinquent payment owed to the  
135 municipality, including, but not limited to, past due fees and  
136 fines. Any such contract debt may provide for payment contingent  
137 upon successful collection efforts or payment based upon a  
138 percentage of the delinquent amount collected; however, the entire  
139 amount of all delinquent payments collected shall be remitted to  
140 the municipality and shall not be reduced by any collection costs  
141 or fees. Any private attorney or private collection agent or  
142 agency contracting with the municipality under the provisions of  
143 this subsection shall give bond or other surety payable to the  
144 municipality in such amount as the governing authorities of the  
145 municipality deem sufficient. Any private attorney with whom the  
146 municipality contracts under the provisions of this subsection  
147 must be a member in good standing of The Mississippi Bar. Any  
148 private collection agent or agency with whom the municipality  
149 contracts under the provisions of this subsection must meet all  
150 licensing requirements for doing business in the State of  
151 Mississippi. Neither the municipality nor any officer or employee  
152 of the municipality shall be liable, civilly or criminally, for  
153 any wrongful or unlawful act or omission of any person or business  
154 with whom the municipality has contracted under the provisions of  
155 this subsection. The Mississippi Department of Audit shall  
156 establish rules and regulations for use by municipalities in  
157 contracting with persons or businesses under the provisions of  
158 this subsection. If a municipality uses its own employees to  
159 collect any type of delinquent payment owed to the municipality,  
160 then from and after July 1, 2000, the municipality may charge an  
161 additional fee for collection of the delinquent payment provided

162 the payment has been delinquent for ninety (90) days. The  
163 collection fee may not exceed fifteen percent (15%) of the  
164 delinquent payment if the collection is made within this state and  
165 may not exceed twenty-five percent (25%) of the delinquent payment  
166 if the collection is made outside this state. In conducting  
167 collection of delinquent payments, the municipality may utilize  
168 credit cards or electronic fund transfers. The municipality may  
169 pay any service fees for the use of such methods of collection  
170 from the collection fee, but not from the delinquent payment.  
171 There shall be due to the municipality from any person whose  
172 delinquent payment is collected under a contract executed as  
173 provided in this subsection an amount, in addition to the  
174 delinquent payment, of not to exceed twenty-five percent (25%) of  
175 the delinquent payment for collections made within this state, and  
176 not to exceed fifty percent (50%) of the delinquent payment for  
177 collections made outside of this state.

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

184 (7) The governing authorities of any municipality may, in  
185 its discretion, donate personal property or funds to the public  
186 school district or districts located in the municipality for the  
187 promotion of educational programs of the district or districts  
188 within the municipality.

189 (8) In addition to the authority to expend matching funds  
190 under Section 21-19-65, the governing authorities of any  
191 municipality, in their discretion, may expend municipal funds to  
192 match any state, federal or private funding for any program  
193 administered by the State of Mississippi, the United States

194 government or any nonprofit organization that is exempt under 26  
195 USCS Section 501(c)(3) from paying federal income tax.

196 (9) The governing authorities of any municipality that owns  
197 and operates a gas distribution system, as defined in Section  
198 21-27-11 (b), is authorized to contract for the purchase of the  
199 supply of natural gas for a term of up to ten (10) years with any  
200 public nonprofit corporation, which is organized under the laws of  
201 this state or any other state.

202 (10) The powers conferred by this section shall be in  
203 addition and supplemental to the powers conferred by any other  
204 law, and nothing contained in this section shall be construed to  
205 prohibit, or to prescribe conditions concerning, any practice or  
206 practices authorized under any other law.

207 **SECTION 3.** Section 1 of this act shall be codified as a  
208 separate code section in Title 21, Chapter 27, Mississippi Code of  
209 1972.

210 **SECTION 4.** This act shall take effect and be in force from  
211 and after July 1, 2004.