

By: Representatives Franks, Miles,
Montgomery, Ward

To: Municipalities;
Appropriations

HOUSE BILL NO. 839
(As Passed the House)

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

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

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

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

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

30 interest of the municipality, and exercise jurisdiction over the
31 same.

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

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

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

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

96 may hold title to such lands only so long as they are continued to
97 be used for the civic, social, educational, cultural, moral,
98 economic or industrial welfare of the community, and that title
99 shall revert to the municipality in the event of the cessation of
100 such use for a period of two (2) years. In any such deed or
101 conveyance, the municipality shall retain all mineral rights that
102 it owns, together with the right of ingress and egress to remove
103 same;

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

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

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

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

129 Department of Housing and Urban Development; to make all contracts
130 and do all other acts in relation to the property and affairs of
131 the municipality necessary to the exercise of its governmental,
132 corporate and administrative powers; and to exercise such other or
133 further powers as are otherwise conferred by law.

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

162 then from and after July 1, 2000, the municipality may charge an
163 additional fee for collection of the delinquent payment provided
164 the payment has been delinquent for ninety (90) days. The
165 collection fee may not exceed fifteen percent (15%) of the
166 delinquent payment if the collection is made within this state and
167 may not exceed twenty-five percent (25%) of the delinquent payment
168 if the collection is made outside this state. In conducting
169 collection of delinquent payments, the municipality may utilize
170 credit cards or electronic fund transfers. The municipality may
171 pay any service fees for the use of such methods of collection
172 from the collection fee, but not from the delinquent payment.
173 There shall be due to the municipality from any person whose
174 delinquent payment is collected under a contract executed as
175 provided in this subsection an amount, in addition to the
176 delinquent payment, of not to exceed twenty-five percent (25%) of
177 the delinquent payment for collections made within this state, and
178 not to exceed fifty percent (50%) of the delinquent payment for
179 collections made outside of this state.

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

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

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

195 administered by the State of Mississippi, the United States
196 government or any nonprofit organization that is exempt under 26
197 USCS Section 501(c)(3) from paying federal income tax.

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

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

210 **SECTION 3.** Section 1 of this act shall be codified as a
211 separate code section in Title 21, Chapter 27, Mississippi Code of
212 1972.

213 **SECTION 4.** This act shall take effect and be in force from
214 and after its passage.