

By: Senator(s) Little, Wilemon, Doxey,  
Browning, Jordan, Butler

To: Municipalities

SENATE BILL NO. 2640  
(As Sent to Governor)

1 AN ACT TO PROVIDE THAT THE GOVERNING AUTHORITY OF ANY  
2 MUNICIPALITY THAT OWNS AND OPERATES A GAS DISTRIBUTION SYSTEM AND  
3 THE GOVERNING AUTHORITY 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, AS AMENDED BY HOUSE BILL NO.  
7 606, 2004 REGULAR SESSION, IN CONFORMITY THERETO, TO PERMIT A  
8 MUNICIPALITY TO ENGAGE A REALTOR TO SELL SURPLUS REAL PROPERTY AND  
9 BE PAID A COMMISSION FOR SERVICES RENDERED, AND TO AUTHORIZE  
10 MUNICIPALITIES TO ESTABLISH AN EMPLOYER-ASSISTED HOUSING PROGRAM  
11 TO ASSIST EMPLOYEES WHEN PURCHASING A HOME; AND FOR RELATED  
12 PURPOSES.

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

14 **SECTION 1.** The governing authority of any municipality that  
15 owns and operates a gas distribution system, as defined in Section  
16 21-27-11(b), and the governing authority of any public natural gas  
17 district are authorized to contract for the purchase of the supply  
18 of natural gas for a term of up to ten (10) years with any public  
19 nonprofit corporation which is organized under the laws of this  
20 state or any other state.

21 **SECTION 2.** Section 21-17-1, Mississippi Code of 1972, as  
22 amended by House Bill No. 606, 2004 Regular Session, is amended as  
23 follows:

24 **[Until July 1, 2004, this section shall read as follows:]**

25 21-17-1. (1) Every municipality of this state shall be a  
26 municipal corporation and shall have power to sue and be sued; to  
27 purchase and hold real estate, either within or without the  
28 corporate limits, for all proper municipal purposes, including  
29 parks, cemeteries, hospitals, schoolhouses, houses of correction,  
30 waterworks, electric lights, sewers and other proper municipal  
31 purposes; to purchase and hold personal property for all proper  
32 municipal purposes; to acquire equipment and machinery by

33 lease-purchase agreement and to pay interest thereon, if  
34 contracted, when needed for proper municipal purposes; to sell and  
35 convey any real and personal property owned by it, and make such  
36 order respecting the same as may be deemed conducive to the best  
37 interest of the municipality, and exercise jurisdiction over the  
38 same.

39 (2) In case any of the real property belonging to a  
40 municipality shall cease to be used for municipal purposes, the  
41 governing authorities of the municipality may sell, convey or  
42 lease the same on such terms as the municipal authorities may  
43 elect. In case of a sale on a credit, the municipality shall  
44 charge appropriate interest as contracted and shall have a lien on  
45 the same for the purchase money, as against all persons, until  
46 paid and may enforce the lien as in such cases provided by law.  
47 The deed of conveyance in such cases shall be executed in the name  
48 of the municipality by the governing authorities of the  
49 municipality pursuant to their order entered on the minutes of  
50 their meetings. In any sale or conveyance of real property, the  
51 municipality shall retain all mineral rights that it owns,  
52 together with the right of ingress and egress to remove same.  
53 Before any such lease, deed or conveyance is executed, the  
54 governing authorities of the municipality shall publish at least  
55 once each week for three (3) consecutive weeks, in a public  
56 newspaper of the municipality in which the real property is  
57 located, or if no newspaper be published as such, then in a  
58 newspaper having general circulation therein, the intention to  
59 lease or sell, as the case may be, the municipally owned real  
60 property and to accept sealed competitive bids for the leasing or  
61 sale. The governing authorities of the municipality shall  
62 thereafter accept bids for the lease or sale and shall award the  
63 lease or sale to the highest bidder in the manner provided by law.  
64 However, whenever the governing authorities of the municipality  
65 shall find and determine, by resolution duly and lawfully adopted

66 and spread upon its minutes (a) that any municipally owned real  
67 property is no longer needed for municipal or related purposes and  
68 is not to be used in the operation of the municipality, (b) that  
69 the sale of such property in the manner otherwise provided by law  
70 is not necessary or desirable for the financial welfare of the  
71 municipality, and (c) that the use of such property for the  
72 purpose for which it is to be sold, conveyed or leased will  
73 promote and foster the development and improvement of the  
74 community in which it is located and the civic, social,  
75 educational, cultural, moral, economic or industrial welfare  
76 thereof, the governing authorities of the municipality shall be  
77 authorized and empowered, in their discretion, to sell, convey or  
78 lease same for any of the purposes set forth herein without having  
79 to advertise for and accept competitive bids. In any case in  
80 which a municipality proposes to sell, convey or lease real  
81 property under the provisions of this section without advertising  
82 for and accepting competitive bids, consideration for the  
83 purchase, conveyance or lease of the property shall be not less  
84 than the average of the fair market price for such property as  
85 determined by three (3) professional property appraisers selected  
86 by the municipality and approved by the purchaser or lessee.  
87 Appraisal fees shall be shared equally by the municipality and the  
88 purchaser or lessee.

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

94 (a) The governing authority may donate such lands to a  
95 bona fide not-for-profit civic or eleemosynary corporation  
96 organized and existing under the laws of the State of Mississippi  
97 and granted tax exempt status by the Internal Revenue Service and  
98 may donate such lands and necessary funds related thereto to the

99 public school district in which the land is situated for the  
100 purposes set forth herein. Any deed or conveyance executed  
101 pursuant hereto shall contain a clause of reverter providing that  
102 the bona fide not-for-profit corporation or public school district  
103 may hold title to such lands only so long as they are continued to  
104 be used for the civic, social, educational, cultural, moral,  
105 economic or industrial welfare of the community, and that title  
106 shall revert to the municipality in the event of the cessation of  
107 such use for a period of two (2) years. In any such deed or  
108 conveyance, the municipality shall retain all mineral rights that  
109 it owns, together with the right of ingress and egress to remove  
110 same;

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

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

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

127 (4) Every municipality shall also be authorized and  
128 empowered to loan to private persons or entities, whether  
129 organized for profit or nonprofit, funds received from the United  
130 States Department of Housing and Urban Development (HUD) under an  
131 urban development action grant or a community development block

132 grant under the Housing and Community Development Act of 1974  
133 (Public Law 93-383), as amended, and to charge interest thereon if  
134 contracted, provided that no such loan shall include any funds  
135 from any revenues other than the funds from the United States  
136 Department of Housing and Urban Development; to make all contracts  
137 and do all other acts in relation to the property and affairs of  
138 the municipality necessary to the exercise of its governmental,  
139 corporate and administrative powers; and to exercise such other or  
140 further powers as are otherwise conferred by law.

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

165 establish rules and regulations for use by municipalities in  
166 contracting with persons or businesses under the provisions of  
167 this subsection. If a municipality uses its own employees to  
168 collect any type of delinquent payment owed to the municipality,  
169 then from and after July 1, 2000, the municipality may charge an  
170 additional fee for collection of the delinquent payment provided  
171 the payment has been delinquent for ninety (90) days. The  
172 collection fee may not exceed fifteen percent (15%) of the  
173 delinquent payment if the collection is made within this state and  
174 may not exceed twenty-five percent (25%) of the delinquent payment  
175 if the collection is made outside this state. In conducting  
176 collection of delinquent payments, the municipality may utilize  
177 credit cards or electronic fund transfers. The municipality may  
178 pay any service fees for the use of such methods of collection  
179 from the collection fee, but not from the delinquent payment.  
180 There shall be due to the municipality from any person whose  
181 delinquent payment is collected under a contract executed as  
182 provided in this subsection an amount, in addition to the  
183 delinquent payment, of not to exceed twenty-five percent (25%) of  
184 the delinquent payment for collections made within this state, and  
185 not to exceed fifty percent (50%) of the delinquent payment for  
186 collections made outside of this state.

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

193 (7) The governing authorities of any municipality may, in  
194 its discretion, donate personal property or funds to the public  
195 school district or districts located in the municipality for the  
196 promotion of educational programs of the district or districts  
197 within the municipality.

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

205           (9) The governing authority of any municipality that owns  
206 and operates a gas distribution system, as defined in Section  
207 21-27-11(b), and the governing authority of any public natural gas  
208 district are authorized to contract for the purchase of the supply  
209 of natural gas for a term of up to ten (10) years with any public  
210 nonprofit corporation which is organized under the laws of this  
211 state or any other state.

212           (10) The powers conferred by this section shall be in  
213 addition and supplemental to the powers conferred by any other  
214 law, and nothing contained in this section shall be construed to  
215 prohibit, or to prescribe conditions concerning, any practice or  
216 practices authorized under any other law.

217           **[From and after July 1, 2004, this section shall read as**  
218 **follows.]**

219           21-17-1. (1) Every municipality of this state shall be a  
220 municipal corporation and shall have power to sue and be sued; to  
221 purchase and hold real estate, either within or without the  
222 corporate limits, for all proper municipal purposes, including  
223 parks, cemeteries, hospitals, schoolhouses, houses of correction,  
224 waterworks, electric lights, sewers and other proper municipal  
225 purposes; to purchase and hold personal property for all proper  
226 municipal purposes; to acquire equipment and machinery by  
227 lease-purchase agreement and to pay interest thereon, if  
228 contracted, when needed for proper municipal purposes; to sell and  
229 convey any real and personal property owned by it, and make such  
230 order respecting the same as may be deemed conducive to the best

231 interest of the municipality, and exercise jurisdiction over the  
232 same.

233       (2) (a) In case any of the real property belonging to a  
234 municipality shall cease to be used for municipal purposes, the  
235 governing authority of the municipality may sell, convey or lease  
236 the same on such terms as the municipal authority may elect. In  
237 case of a sale on a credit, the municipality shall charge  
238 appropriate interest as contracted and shall have a lien on the  
239 same for the purchase money, as against all persons, until paid  
240 and may enforce the lien as in such cases provided by law. The  
241 deed of conveyance in such cases shall be executed in the name of  
242 the municipality by the governing authority of the municipality  
243 pursuant to an order entered on the minutes \* \* \*. In any sale or  
244 conveyance of real property, the municipality shall retain all  
245 mineral rights that it owns, together with the right of ingress  
246 and egress to remove same. Except as otherwise provided in this  
247 section, before any such lease, deed or conveyance is executed,  
248 the governing authority of the municipality shall publish at least  
249 once each week for three (3) consecutive weeks, in a public  
250 newspaper of the municipality in which the real property is  
251 located, or if no newspaper be published as such, then in a  
252 newspaper having general circulation therein, the intention to  
253 lease or sell, as the case may be, the municipally owned real  
254 property and to accept sealed competitive bids for the leasing or  
255 sale. The governing authority of the municipality shall  
256 thereafter accept bids for the lease or sale and shall award the  
257 lease or sale to the highest bidder in the manner provided by law.  
258 However, whenever the governing authority of the municipality  
259 shall find and determine, by resolution duly and lawfully adopted  
260 and spread upon its minutes (i) that any municipally owned real  
261 property is no longer needed for municipal or related purposes and  
262 is not to be used in the operation of the municipality, (ii) that  
263 the sale of such property in the manner otherwise provided by law



264 is not necessary or desirable for the financial welfare of the  
265 municipality, and (iii) that the use of such property for the  
266 purpose for which it is to be sold, conveyed or leased will  
267 promote and foster the development and improvement of the  
268 community in which it is located and the civic, social,  
269 educational, cultural, moral, economic or industrial welfare  
270 thereof, the governing authority of the municipality shall be  
271 authorized and empowered, in its discretion, to sell, convey or  
272 lease same for any of the purposes set forth herein without having  
273 to advertise for and accept competitive bids.

274 (b) In any case in which a municipality proposes to  
275 sell, convey or lease real property under the provisions of this  
276 subsection (2) without advertising for and accepting competitive  
277 bids, the governing authority may sell, convey or lease the  
278 property as follows:

279 (i) Consideration for the purchase, conveyance or  
280 lease of the property shall be not less than the average of the  
281 fair market price for such property as determined by three (3)  
282 professional property appraisers selected by the municipality and  
283 approved by the purchaser or lessee. Appraisal fees shall be  
284 shared equally by the municipality and the purchaser or lessee; or

285 (ii) The governing authority of a municipality may  
286 contract for the professional services of a Mississippi licensed  
287 real estate broker to assist the municipality in the marketing and  
288 sale or lease of the property, and may provide the broker  
289 reasonable compensation for services rendered to be paid from the  
290 sale or lease proceeds. The reasonable compensation shall not  
291 exceed the usual and customary compensation for similar services  
292 within the municipality.

293 (3) Whenever the governing authority of the municipality  
294 shall find and determine by resolution duly and lawfully adopted  
295 and spread upon the minutes that municipally owned real property

296 is not used for municipal purposes and therefore surplus as set  
297 forth in subsection (2) of this section:

298           (a) The governing authority may donate such lands to a  
299 bona fide not-for-profit civic or eleemosynary corporation  
300 organized and existing under the laws of the State of Mississippi  
301 and granted tax exempt status by the Internal Revenue Service and  
302 may donate such lands and necessary funds related thereto to the  
303 public school district in which the land is situated for the  
304 purposes set forth herein. Any deed or conveyance executed  
305 pursuant hereto shall contain a clause of reverter providing that  
306 the bona fide not-for-profit corporation or public school district  
307 may hold title to such lands only so long as they are continued to  
308 be used for the civic, social, educational, cultural, moral,  
309 economic or industrial welfare of the community, and that title  
310 shall revert to the municipality in the event of the cessation of  
311 such use for a period of two (2) years. In any such deed or  
312 conveyance, the municipality shall retain all mineral rights that  
313 it owns, together with the right of ingress and egress to remove  
314 same;

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

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

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

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

345 (5) (a) The governing authority of any municipality may  
346 establish an employer-assisted housing program to provide funds to  
347 eligible employees to be used toward the purchase of a home. This  
348 assistance may be applied toward the down payment, closing costs  
349 or any other fees or costs associated with the purchase of a home.  
350 The housing assistance may be in the form of a grant, forgivable  
351 loan or repayable loan. The governing authority of a municipality  
352 may contract with one or more public or private entities to  
353 provide assistance in implementing and administering the program  
354 and shall adopt rules and regulations regarding the eligibility of  
355 a municipality for the program and for the implementation and  
356 administration of the program. However, no general funds of a  
357 municipality may be used for a grant or loan under the program.

358 (b) Participation in the program established under this  
359 subsection (5) shall be available to any eligible municipal  
360 employee as determined by the governing authority of the

361 municipality. Any person who receives financial assistance under  
362 the program must purchase a house and reside within certain  
363 geographic boundaries as determined by the governing authority of  
364 the municipality.

365       (c) If the assistance authorized under this subsection  
366 (5) is structured as a forgivable loan, the participating employee  
367 must remain as an employee of the municipality for an agreed upon  
368 period of time, as determined by the rules and regulations adopted  
369 by the governing authority of the municipality, in order to have  
370 the loan forgiven. The forgiveness structure, amount of  
371 assistance and repayment terms shall be determined by the  
372 governing authority of the municipality.

373       (6) The governing authority of any municipality may contract  
374 with a private attorney or private collection agent or agency to  
375 collect any type of delinquent payment owed to the municipality,  
376 including, but not limited to, past due fees and fines. Any such  
377 contract debt may provide for payment contingent upon successful  
378 collection efforts or payment based upon a percentage of the  
379 delinquent amount collected; however, the entire amount of all  
380 delinquent payments collected shall be remitted to the  
381 municipality and shall not be reduced by any collection costs or  
382 fees. Any private attorney or private collection agent or agency  
383 contracting with the municipality under the provisions of this  
384 subsection shall give bond or other surety payable to the  
385 municipality in such amount as the governing authority of the  
386 municipality deems sufficient. Any private attorney with whom the  
387 municipality contracts under the provisions of this subsection  
388 must be a member in good standing of The Mississippi Bar. Any  
389 private collection agent or agency with whom the municipality  
390 contracts under the provisions of this subsection must meet all  
391 licensing requirements for doing business in the State of  
392 Mississippi. Neither the municipality nor any officer or employee  
393 of the municipality shall be liable, civilly or criminally, for

394 any wrongful or unlawful act or omission of any person or business  
395 with whom the municipality has contracted under the provisions of  
396 this subsection. The Mississippi Department of Audit shall  
397 establish rules and regulations for use by municipalities in  
398 contracting with persons or businesses under the provisions of  
399 this subsection. If a municipality uses its own employees to  
400 collect any type of delinquent payment owed to the municipality,  
401 then from and after July 1, 2000, the municipality may charge an  
402 additional fee for collection of the delinquent payment provided  
403 the payment has been delinquent for ninety (90) days. The  
404 collection fee may not exceed fifteen percent (15%) of the  
405 delinquent payment if the collection is made within this state and  
406 may not exceed twenty-five percent (25%) of the delinquent payment  
407 if the collection is made outside this state. In conducting  
408 collection of delinquent payments, the municipality may utilize  
409 credit cards or electronic fund transfers. The municipality may  
410 pay any service fees for the use of such methods of collection  
411 from the collection fee, but not from the delinquent payment.  
412 There shall be due to the municipality from any person whose  
413 delinquent payment is collected under a contract executed as  
414 provided in this subsection an amount, in addition to the  
415 delinquent payment, of not to exceed twenty-five percent (25%) of  
416 the delinquent payment for collections made within this state, and  
417 not to exceed fifty percent (50%) of the delinquent payment for  
418 collections made outside of this state.

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

425       (8) The governing authority of any municipality may, in its  
426 discretion, donate personal property or funds to the public school

427 district or districts located in the municipality for the  
428 promotion of educational programs of the district or districts  
429 within the municipality.

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

437 (10) The governing authority of any municipality that owns  
438 and operates a gas distribution system, as defined in Section  
439 21-27-11(b), and the governing authority of any public natural gas  
440 district are authorized to contract for the purchase of the supply  
441 of natural gas for a term of up to ten (10) years with any public  
442 nonprofit corporation which is organized under the laws of this  
443 state or any other state.

444 (11) The powers conferred by this section shall be in  
445 addition and supplemental to the powers conferred by any other  
446 law, and nothing contained in this section shall be construed to  
447 prohibit, or to prescribe conditions concerning, any practice or  
448 practices authorized under any other law.

449 **SECTION 3.** Section 1 of this act shall be codified as a  
450 separate code section in Title 21, Chapter 27, Mississippi Code of  
451 1972.

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