

By: Senator(s) Tollison, Frazier,
Williamson, Butler, Jackson (11th)

To: Municipalities

SENATE BILL NO. 2641

1 AN ACT TO AMEND SECTION 21-17-1, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE MUNICIPALITIES TO ESTABLISH AN EMPLOYER-ASSISTED HOUSING
3 PROGRAM TO ASSIST EMPLOYEES WHEN PURCHASING A HOME; AND FOR
4 RELATED PURPOSES.

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

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

8 21-17-1. (1) Every municipality of this state shall be a
9 municipal corporation and shall have power to sue and be sued; to
10 purchase and hold real estate, either within or without the
11 corporate limits, for all proper municipal purposes, including
12 parks, cemeteries, hospitals, schoolhouses, houses of correction,
13 waterworks, electric lights, sewers and other proper municipal
14 purposes; to purchase and hold personal property for all proper
15 municipal purposes; to acquire equipment and machinery by
16 lease-purchase agreement and to pay interest thereon, if
17 contracted, when needed for proper municipal purposes; to sell and
18 convey any real and personal property owned by it, and make such
19 order respecting the same as may be deemed conducive to the best
20 interest of the municipality, and exercise jurisdiction over the
21 same.

22 (2) In case any of the real property belonging to a
23 municipality shall cease to be used for municipal purposes, the
24 governing authority of the municipality may sell, convey or lease
25 the same on such terms as the municipal authority may elect. In
26 case of a sale on a credit, the municipality shall charge
27 appropriate interest as contracted and shall have a lien on the
28 same for the purchase money, as against all persons, until paid

29 and may enforce the lien as in such cases provided by law. The
30 deed of conveyance in such cases shall be executed in the name of
31 the municipality by the governing authority of the municipality
32 pursuant to * * * order entered on the minutes * * *. In any sale
33 or conveyance of real property, the municipality shall retain all
34 mineral rights that it owns, together with the right of ingress
35 and egress to remove same. Before any such lease, deed or
36 conveyance is executed, the governing authority of the
37 municipality shall publish at least once each week for three (3)
38 consecutive weeks, in a public newspaper of the municipality in
39 which the real property is located, or if no newspaper be
40 published as such, then in a newspaper having general circulation
41 therein, the intention to lease or sell, as the case may be, the
42 municipally owned real property and to accept sealed competitive
43 bids for the leasing or sale. The governing authority of the
44 municipality shall thereafter accept bids for the lease or sale
45 and shall award the lease or sale to the highest bidder in the
46 manner provided by law. However, whenever the governing authority
47 of the municipality shall find and determine, by resolution duly
48 and lawfully adopted and spread upon its minutes (a) that any
49 municipally owned real property is no longer needed for municipal
50 or related purposes and is not to be used in the operation of the
51 municipality, (b) that the sale of such property in the manner
52 otherwise provided by law is not necessary or desirable for the
53 financial welfare of the municipality, and (c) that the use of
54 such property for the purpose for which it is to be sold, conveyed
55 or leased will promote and foster the development and improvement
56 of the community in which it is located and the civic, social,
57 educational, cultural, moral, economic or industrial welfare
58 thereof, the governing authority of the municipality shall be
59 authorized and empowered, in its discretion, to sell, convey or
60 lease same for any of the purposes set forth herein without having
61 to advertise for and accept competitive bids. In any case in

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

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

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

93 (b) The governing authority may donate such lands to a
94 bona fide not-for-profit corporation (such as Habitat for

95 Humanity) which is primarily engaged in the construction of
96 housing for persons who otherwise can afford to live only in
97 substandard housing. In any such deed or conveyance, the
98 municipality shall retain all mineral rights that it owns,
99 together with the right of ingress and egress to remove same;

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

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

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

123 (5) (a) The governing authority of any municipality may
124 establish an employer-assisted housing program, to provide funds
125 to eligible employees to be used toward the purchase of a home.
126 This assistance may be applied toward the down payment, closing
127 costs or any other fees or costs associated with the purchase of a

128 home. The housing assistance may be in the form of a grant,
129 forgivable loan or repayable loan. The program shall be
130 administered by the municipality in conjunction with the Federal
131 National Mortgage Association (Fannie Mae). The governing
132 authority of a municipality may contract with one or more public
133 or private entities to provide assistance in implementing and
134 administering the program, and shall adopt rules and regulations
135 regarding the eligibility of a municipality for the program, and
136 for the implementation and administration of the program.

137 (b) Participation in the program established under this
138 subsection (5) shall be available to any eligible municipal
139 employee as determined by the governing authority of the
140 municipality. Any person who receives financial assistance under
141 the program must purchase a house and reside within certain
142 geographic boundaries as determined by the governing authority of
143 the municipality.

144 (c) If the assistance authorized under this subsection
145 is structured as a forgivable loan, the participating employee
146 must remain as an employee of the municipality for an agreed upon
147 period of time, as determined by the rules and regulations adopted
148 by the governing authority of the municipality, in order to have
149 the loan forgiven. The forgiveness structure, amount of
150 assistance and repayment terms shall be determined by the
151 governing authority of the municipality.

152 (6) The governing authority of any municipality may contract
153 with a private attorney or private collection agent or agency to
154 collect any type of delinquent payment owed to the municipality,
155 including, but not limited to, past due fees and fines. Any such
156 contract debt may provide for payment contingent upon successful
157 collection efforts or payment based upon a percentage of the
158 delinquent amount collected; however, the entire amount of all
159 delinquent payments collected shall be remitted to the
160 municipality and shall not be reduced by any collection costs or

161 fees. Any private attorney or private collection agent or agency
162 contracting with the municipality under the provisions of this
163 subsection shall give bond or other surety payable to the
164 municipality in such amount as the governing authority of the
165 municipality deem sufficient. Any private attorney with whom the
166 municipality contracts under the provisions of this subsection
167 must be a member in good standing of The Mississippi Bar. Any
168 private collection agent or agency with whom the municipality
169 contracts under the provisions of this subsection must meet all
170 licensing requirements for doing business in the State of
171 Mississippi. Neither the municipality nor any officer or employee
172 of the municipality shall be liable, civilly or criminally, for
173 any wrongful or unlawful act or omission of any person or business
174 with whom the municipality has contracted under the provisions of
175 this subsection. The Mississippi Department of Audit shall
176 establish rules and regulations for use by municipalities in
177 contracting with persons or businesses under the provisions of
178 this subsection. If a municipality uses its own employees to
179 collect any type of delinquent payment owed to the municipality,
180 then from and after July 1, 2000, the municipality may charge an
181 additional fee for collection of the delinquent payment provided
182 the payment has been delinquent for ninety (90) days. The
183 collection fee may not exceed fifteen percent (15%) of the
184 delinquent payment if the collection is made within this state and
185 may not exceed twenty-five percent (25%) of the delinquent payment
186 if the collection is made outside this state. In conducting
187 collection of delinquent payments, the municipality may utilize
188 credit cards or electronic fund transfers. The municipality may
189 pay any service fees for the use of such methods of collection
190 from the collection fee, but not from the delinquent payment.
191 There shall be due to the municipality from any person whose
192 delinquent payment is collected under a contract executed as
193 provided in this subsection an amount, in addition to the

194 delinquent payment, of not to exceed twenty-five percent (25%) of
195 the delinquent payment for collections made within this state, and
196 not to exceed fifty percent (50%) of the delinquent payment for
197 collections made outside of this state.

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

204 (8) The governing authority of any municipality may, in its
205 discretion, donate personal property or funds to the public school
206 district or districts located in the municipality for the
207 promotion of educational programs of the district or districts
208 within the municipality.

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

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

221 **SECTION 2.** This act shall take effect and be in force from
222 and after July 1, 2004.