

By: Representative Mayo

To: Municipalities

HOUSE BILL NO. 762

1 AN ACT TO AMEND SECTION 21-17-5, MISSISSIPPI CODE OF 1972, TO
2 CLARIFY THE HOME RULE AUTHORITY OF MUNICIPALITIES; AND FOR RELATED
3 PURPOSES.

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

5 **SECTION 1.** Section 21-17-5, Mississippi Code of 1972, is
6 amended as follows:

7 21-17-5. (1) The governing authority of every municipality
8 of this state shall have the care, management and control of the
9 municipal affairs and its property and finances. In addition to
10 those powers granted by specific provisions of general law, the
11 governing authorities of municipalities shall have the power to
12 adopt any orders, resolutions or ordinances with respect to * * *
13 municipal affairs, property and finances which are not
14 inconsistent with the Mississippi Constitution of 1890, the
15 Mississippi Code of 1972, or any other statute or law of the State
16 of Mississippi, and shall likewise have the power to alter, modify
17 and repeal such orders, resolutions or ordinances. Except as
18 otherwise provided in subsection (2) of this section, the powers
19 granted to governing authorities of municipalities in this section
20 are complete without the existence of or reference to any specific
21 authority granted in any other statute or law of the State of
22 Mississippi and may be exercised unless specifically prohibited by
23 a statute or law of the State of Mississippi. Unless otherwise
24 provided by law, before entering upon the duties of their
25 respective offices, the aldermen or councilmen of every
26 municipality of this state shall give bond, with sufficient
27 surety, to be payable, conditioned and approved as provided by

28 law, in a penalty equal to five percent (5%) of the sum of all the
29 municipal taxes shown by the assessment rolls and the levies to
30 have been collectible in the municipality for the year immediately
31 preceding the commencement of the term of office of said alderman
32 or councilman; however, such bond shall not exceed the amount of
33 One Hundred Thousand Dollars (\$100,000.00). Any taxpayer of the
34 municipality may sue on such bond for the use of the municipality,
35 and such taxpayer shall be liable for all costs in case his suit
36 shall fail. No member of the city council or board of aldermen
37 shall be surety for any other such member.

38 (2) Unless such actions are specifically authorized by
39 another statute or law of the State of Mississippi, this section
40 shall not authorize the governing authority of a municipality to
41 (a) levy taxes of any kind or increase the levy of any authorized
42 tax, (b) issue bonds of any kind, (c) change the requirements,
43 practices or procedures for municipal elections or establish any
44 new elective office, (d) change the procedure for annexation of
45 additional territory into the municipal boundaries, (e) change the
46 structure or form of the municipal government, (f) permit the
47 sale, manufacture, distribution, possession or transportation of
48 alcoholic beverages, (g) grant any donation, or (h) without prior
49 legislative approval, regulate, directly or indirectly, the amount
50 of rent charged for leasing private residential property in which
51 the municipality does not have a property interest. All other
52 powers of the governing authorities of municipalities may be
53 exercised unless specifically prohibited by the statutes or laws
54 of the State of Mississippi.

55 (3) Nothing in this or any other section shall be construed
56 so as to prevent any municipal governing authority from paying any
57 municipal employee not to exceed double his ordinary rate of pay
58 or awarding any municipal employee not to exceed double his
59 ordinary rate of compensatory time for work performed in his
60 capacity as a municipal employee on legal holidays.

61 (4) The governing authority of any municipality, in its
62 discretion, may expend funds to provide for training and education
63 of newly elected or appointed municipal officials before the
64 beginning of the term of office or employment of such officials.
65 Any expenses incurred for such purposes may be allowed only upon
66 prior approval of the governing authority. Any payments or
67 reimbursements made under the provisions of this subsection may be
68 paid only after presentation to and approval by the governing
69 authority of the municipality.

70 **SECTION 2.** This act shall take effect and be in force from
71 and after July 1, 2005.