

By: Representative Robinson (63rd)

To: Municipalities

## HOUSE BILL NO. 1176

1 AN ACT TO AMEND SECTION 21-3-15, MISSISSIPPI CODE OF 1972, TO  
2 REVISE THE DUTIES OF THE MAYOR AND BOARD OF ALDERMEN IN A CODE  
3 CHARTER FORM OF GOVERNMENT BY MAKING THE MAYOR THE SUPERINTENDING  
4 CONTROL OF ALL OFFICERS AND AFFAIRS OF A MUNICIPALITY; TO AMEND  
5 SECTION 21-7-13, MISSISSIPPI CODE OF 1972, TO REVISE THE DUTIES OF  
6 THE MAYOR AND COUNCIL IN THE COUNCIL FORM OF GOVERNMENT IN  
7 CONFORMITY THERETO; TO AMEND SECTION 21-7-11, MISSISSIPPI CODE OF  
8 1972, IN CONFORMITY THERETO; TO AMEND SECTION 21-8-17, MISSISSIPPI  
9 CODE OF 1972, TO REVISE THE DUTIES OF THE MAYOR IN THE  
10 MAYOR-COUNCIL FORM OF GOVERNMENT, IN CONFORMITY THERETO; TO AMEND  
11 SECTION 21-8-13, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO;  
12 AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** Section 21-3-15, Mississippi Code of 1972, is  
15 amended as follows:

16 21-3-15. (1) The mayor shall preside at all meetings of the  
17 board of aldermen, and in case there shall be an equal division,  
18 he shall give the deciding vote. The authority of the mayor is  
19 executive and shall have superintending control of all the  
20 officers and affairs of the municipality, and he or she shall  
21 ensure that the laws and ordinances are executed. The authority  
22 of the board of aldermen is legislative and is executed by a vote  
23 within a legally called meeting of the board of aldermen. No  
24 member of the board of aldermen shall give orders to any employee  
25 or subordinate of a municipality.

26 The board of aldermen shall deal with the municipal  
27 departments and personnel solely through the mayor.

28 (2) Ordinances adopted by the board of aldermen shall be  
29 submitted to the mayor. The mayor shall, within ten (10) days  
30 after receiving any ordinance, either approve the ordinance by  
31 affixing his signature thereto, or return it to the board of  
32 aldermen by delivering it to the municipal clerk together with a

33 written statement setting forth his objections thereto or to any  
34 item or part thereof. No ordinance or any item or part thereof  
35 shall take effect without the mayor's approval, unless the mayor  
36 fails to return an ordinance to the board of aldermen prior to the  
37 next meeting of the board, but no later than fifteen (15) days  
38 after it has been presented to him, or unless the board of  
39 aldermen, upon reconsideration thereof on or after the third day  
40 following its return by the mayor, shall, by a vote of two-thirds  
41 (2/3) of the members of the board, resolve to override the mayor's  
42 veto.

43 (3) The term "ordinance" as used in this section shall be  
44 deemed to include ordinances, resolutions and orders.

45 **SECTION 2.** Section 21-7-13, Mississippi Code of 1972, is  
46 amended as follows:

47 21-7-13. The powers and duties heretofore conferred upon the  
48 mayor of municipalities by law are hereby conferred upon and  
49 charged to the council, except as otherwise provided by law. The  
50 authority of the mayor is executive and shall have superintending  
51 control of all the officers and affairs of the municipality, and  
52 he or she shall ensure that the laws and ordinances are executed.

53 The mayor, or in his absence the vice mayor, shall (a) as chairman  
54 preside at all meetings of the council, and shall have veto power,  
55 in writing, giving his reasons therefor, of any measure passed by  
56 the council, although a measure vetoed may be adopted  
57 notwithstanding, if two-thirds (2/3) of the council vote therefor;  
58 (b) represent the municipality in all functions political, social  
59 or economic, but he shall in no wise bind the municipality, other  
60 than as he may be specifically authorized or delegated to do by  
61 the council, as reflected by its orders, resolutions or  
62 ordinances; (c) execute for and on behalf of the council, all  
63 documents or instruments of writing, of whatever kind and  
64 character, under the seal of the municipality, when necessary or  
65 required; and (d) act for the municipality as directed by the

66 council, in any manner and for any purpose which by any statute or  
67 law, because of its particular wording or meaning, provides for  
68 individual action of the mayor rather than body action of the  
69 council, wherein and whereby such right of action could not be  
70 properly or consistently exercised by the latter, all to the end  
71 that any such municipality coming under the provisions of this  
72 chapter shall not be denied any of the rights and privileges which  
73 any such municipality would enjoy except for the provisions of  
74 this chapter. The council shall fix the amount of compensation of  
75 the mayor and vice mayor, for their additional duties as such,  
76 which compensation shall be in addition to their compensation as  
77 councilmen.

78 **SECTION 3.** Section 21-7-11, Mississippi Code of 1972, is  
79 amended as follows:

80 21-7-11. The full and complete \* \* \* legislative powers of  
81 the municipality as vested by law, or inherent, shall be vested in  
82 such council, except as otherwise provided by law. The council,  
83 however, may delegate such of its administrative functions as it  
84 deems proper and necessary to such officials so elected by it as  
85 provided in Section 21-7-15, and in addition may delegate  
86 administrative powers and functions to such other person or  
87 persons as may be selected by said council in order to carry out  
88 its functions, whether municipal or proprietary, which would  
89 permit the efficient administration of its municipal affairs. The  
90 authority of the council is legislative and is executed by a vote  
91 within a legally called meeting of the council. No member of the  
92 council shall give orders to any employee or subordinate of a  
93 municipality.

94 The council has the right to select, appoint or designate  
95 departmental heads, such as but not limited to superintendent of  
96 utilities, superintendent of public health and sanitation,  
97 superintendent of fire and safety, superintendent of parks and  
98 recreation, superintendent of public buildings and grounds, and

99 such other departmental heads as the council may deem best and  
100 proper. However, the council shall deal with such municipal  
101 departments and personnel solely through the mayor. The council  
102 has the power to fix the compensation of all such persons so  
103 selected and to define their duties, obligations and  
104 responsibilities. The council shall also require all officers and  
105 employees handling or having the custody of any public funds of  
106 such city to give bond, with sufficient surety, to be payable,  
107 conditioned and approved as provided by law, in an amount to be  
108 determined by the council (which shall not be less than Ten  
109 Thousand Dollars (\$10,000.00)). Any and all such persons so  
110 selected shall be accountable to the council and shall make  
111 report, or reports, to the council so often as is required of them  
112 respectively, and may be removed at any time for cause after first  
113 having been given an opportunity for a hearing on the reasons for  
114 removal. No member of the council shall be eligible for selection  
115 to any such office or position.

116 **SECTION 4.** Section 21-8-17, Mississippi Code of 1972, is  
117 amended as follows:

118 21-8-17. (1) The mayor shall enforce the charter and  
119 ordinances of the municipality and all general laws applicable  
120 thereto. He or she shall annually report to the council and the  
121 public on the work of the previous year and on the condition and  
122 requirements of the municipal government and shall, from time to  
123 time, make such recommendations for action by the council as he  
124 may deem in the public interest. He or she shall supervise all of  
125 the departments of the municipal government and shall require each  
126 department to make an annual report and such other reports of its  
127 work as he may deem desirable.

128 (2) The authority of the mayor is executive and shall have  
129 superintending control of all the officers and affairs of the  
130 municipality, and he or she shall ensure that the laws and  
131 ordinances are executed.

132       (3) Ordinances adopted by the council shall be submitted to  
133 the mayor and he or she shall, within ten (10) days (not including  
134 Saturdays, Sundays or holidays) after receiving any ordinance,  
135 either approve the ordinance by affixing his or her signature  
136 thereto or return it to the council by delivering it to the clerk  
137 of the council together with a statement setting forth his  
138 objections thereto or to any item or part thereof. No ordinance  
139 or any item or part thereof shall take effect without the mayor's  
140 approval, unless the mayor fails to return an ordinance to the  
141 council prior to the next council meeting, but no later than  
142 fifteen (15) days (not including Saturdays, Sundays or holidays)  
143 after it has been presented to him or her or unless the council  
144 upon reconsideration thereof not later than the tenth day (not  
145 including Saturdays, Sundays or holidays) following its return by  
146 the mayor, shall, by a vote of two-thirds (2/3) of the members  
147 present and voting resolve to override the mayor's veto.

148       (4) The mayor may attend meetings of the council and may  
149 take part in discussions of the council but shall have no vote  
150 except in the case of a tie on the question of filling a vacancy  
151 in the council, in which case he may cast the deciding vote.

152       **SECTION 5.** Section 21-8-13, Mississippi Code of 1972, is  
153 amended as follows:

154       21-8-13. (1) The authority of the council is legislative and  
155 is executed by a vote within a legally called meeting.

156       (2) The council shall appoint a clerk of the council and  
157 deputy clerks, as necessary, who shall compile the minutes and  
158 records of its proceedings, its ordinances and resolutions as this  
159 chapter requires, and perform such duties as may be required by  
160 law.

161       (3) At the end of each fiscal year, the council shall cause  
162 a full and complete examination of all the books, accounts and  
163 vouchers of the municipality to be made by a competent,  
164 independent accountant or accountants who shall be appointed by

165 the council, and the report of said examination shall be typed or  
166 printed in pamphlet form. The council shall make available a copy  
167 of said pamphlet to all persons who shall apply therefor at the  
168 office of the municipal clerk and shall cause three (3) of the  
169 printed copies of said pamphlet for each fiscal year to be  
170 substantially bound in three (3) volumes which shall be kept and  
171 preserved as a record of the clerk's office. Said pamphlets shall  
172 be published as now provided by law.

173 (4) If, at the beginning of the first term of office of the  
174 first city council elected by any municipality under the  
175 provisions of this chapter, the appropriations for the  
176 expenditures for the municipal government for the current fiscal  
177 year shall have been made, the council shall have power by  
178 ordinance, to revise, repeal or change said appropriations and to  
179 make additional appropriations.

180 (5) The council shall deal with the municipal departments  
181 and personnel solely through the mayor and no council shall give  
182 orders to any employee or subordinate of a municipality.

183 **SECTION 6.** This act shall take effect and be in force from  
184 and after July 1, 2006.