

By: Senator(s) Albritton

To: Judiciary, Division B

SENATE BILL NO. 2878

1 AN ACT TO AMEND SECTIONS 63-1-53, 19-3-41 AND 21-17-1,
2 MISSISSIPPI CODE OF 1972, TO ALLOW MUNICIPALITIES AND COUNTIES TO
3 COLLECT AN ADDITIONAL FEE AGAINST DEFENDANTS WHO FAIL TO APPEAR
4 AFTER CITATION FOR A TRAFFIC OFFENSE AND TO REQUIRE THE
5 COMMISSIONER OF PUBLIC SAFETY, UPON DUE NOTICE THEREOF, TO SUSPEND
6 THE DRIVER'S LICENSE OF THE DEFENDANT; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 63-1-53, Mississippi Code of 1972, is
9 amended as follows:

10 63-1-53. (1) Upon failure of any person to respond timely
11 and properly to a summons or citation charging the person with any
12 violation of this title, or upon failure of any person to pay
13 timely any fine, fee or assessment levied as a result of any
14 violation of this title, the clerk of the court shall give written
15 notice to the person by United States first class mail at his last
16 known address advising the person that if within ten (10) days
17 after the notice is deposited in the mail the person has not
18 properly responded to the summons or citation or has not paid the
19 entire amount of all fines, fees and assessments levied, then the
20 court will give notice thereof to the Commissioner of Public
21 Safety and the commissioner shall suspend the driver's license of
22 the person. A fee of Ten Dollars (\$10.00) to cover the actual
23 cost incurred by the court in the giving of the notice shall be
24 added to any other court costs assessed in the case. If within
25 ten (10) days after the notice is given in accordance with this
26 subsection the person has not satisfactorily disposed of the
27 matter pending before the court, then the clerk of the court
28 immediately shall:

29 (a) Administratively assess a delinquency fee of
30 Thirty-five Dollars (\$35.00) against the person; and

31 (b) Mail a copy of the abstract of the court record,
32 along with a certified copy of the notice given under this
33 subsection, to the Commissioner of Public Safety, and the
34 commissioner shall suspend the driver's license of the person as
35 authorized under subsections (2) and (3) of this section.

36 (2) The commissioner is hereby authorized to suspend the
37 license of an operator without preliminary hearing upon a showing
38 by his records or other sufficient evidence that the licensee:

39 (a) Has committed an offense for which mandatory
40 revocation of license is required upon conviction except under the
41 provisions of the Mississippi Implied Consent Law;

42 (b) Has been involved as a driver in any accident
43 resulting in the death or personal injury of another or serious
44 property damage;

45 (c) Is an habitually reckless or negligent driver of a
46 motor vehicle;

47 (d) Has been convicted with such frequency of serious
48 offenses against traffic regulations governing the movement of
49 vehicles as to indicate a disrespect for traffic laws and a
50 disregard for the safety of other persons on the highways;

51 (e) Is incompetent to drive a motor vehicle;

52 (f) Has permitted an unlawful or fraudulent use of the
53 license;

54 (g) Has committed an offense in another state which if
55 committed in this state would be grounds for suspension or
56 revocation;

57 (h) Has failed to pay any fine, fee or other assessment
58 levied as a result of any violation of this title;

59 (i) Has failed to respond to a summons or citation
60 which charged a violation of this title; or

61 (j) Has committed a violation for which mandatory
62 revocation of license is required upon conviction, entering a plea
63 of nolo contendere to, or adjudication of delinquency, pursuant to
64 the provisions of subsection (1) of Section 63-1-71.

65 (3) Notice that a person's license is suspended or will be
66 suspended under subsection (2) of this section shall be given by
67 the commissioner in the manner and at the time provided for under
68 Section 63-1-52, and upon the person's request, he shall be
69 afforded an opportunity for a hearing as early as practical within
70 not to exceed twenty (20) days after receipt of the request in the
71 county wherein the licensee resides unless the department and the
72 licensee agree that the hearing may be held in some other county.
73 Upon the hearing the commissioner, or his duly authorized agent,
74 may administer oaths and may issue subpoenas for the attendance of
75 witnesses and the production of relevant books and papers and may
76 require a reexamination of the licensee. Upon the hearing the
77 commissioner shall either rescind any order of suspension or, good
78 cause appearing therefor, may extend any suspension of the license
79 or revoke the license.

80 **SECTION 2.** Section 19-3-41, Mississippi Code of 1972, is
81 amended as follows:

82 19-3-41. (1) The boards of supervisors shall have within
83 their respective counties full jurisdiction over roads, ferries
84 and bridges, except as otherwise provided by Section 170 of the
85 Constitution, and all other matters of county police. They shall
86 have jurisdiction over the subject of paupers. They shall have
87 power to levy such taxes as may be necessary to meet the demands
88 of their respective counties, upon such persons and property as
89 are subject to state taxes for the time being, not exceeding the
90 limits that may be prescribed by law. They shall cause to be
91 erected and kept in good repair, in their respective counties, a
92 good and convenient courthouse and a jail. A courthouse shall be
93 erected and kept in good repair in each judicial district and a

94 jail may be erected in each judicial district. They may close a
95 jail in either judicial district, at their discretion, where one
96 (1) jail will suffice. They shall have the power, in their
97 discretion, to prohibit or regulate the sale and use of
98 firecrackers, roman candles, torpedoes, skyrockets, and any and
99 all explosives commonly known and referred to as fireworks,
100 outside the confines of municipalities. They shall have and
101 exercise such further powers as are or shall be conferred upon
102 them by law. They shall have authority to negotiate with and
103 contract with licensed real estate brokers for the purpose of
104 advertising and showing and procuring prospective purchasers for
105 county-owned real property offered for sale in accordance with the
106 provisions of Section 19-7-3.

107 (2) The board of supervisors of any county, in its
108 discretion, may contract with a private attorney or private
109 collection agent or agency to collect any type of delinquent
110 payment owed to the county including, but not limited to, past due
111 fees and fines, delinquent ad valorem taxes on personal property
112 and delinquent ad valorem taxes on mobile homes that are entered
113 as personal property on the mobile home rolls. Any such contract
114 may provide for payment contingent upon successful collection
115 efforts or payment based upon a percentage of the delinquent
116 amount collected; however, the entire amount of all delinquent
117 payments collected shall be remitted to the county and shall not
118 be reduced by any collection costs or fees. There shall be due to
119 the county from any person whose delinquent payment is collected
120 pursuant to a contract executed under this subsection an amount,
121 in addition to the delinquent payment, of not to exceed
122 twenty-five percent (25%) of the delinquent payment for
123 collections made within this state and not to exceed fifty percent
124 (50%) of the delinquent payment for collections made outside of
125 this state. However, in the case of delinquent fees owed to the
126 county for garbage or rubbish collection or disposal, only the

127 amount of the delinquent fees may be collected and no amount in
128 addition to the delinquent fees may be collected if the board of
129 supervisors of the county has notified the county tax collector
130 under Section 19-5-22 for the purpose of prohibiting the issuance
131 of a motor vehicle road and bridge privilege license tag to the
132 person delinquent in the payment of the fees. Any private
133 attorney or private collection agent or agency contracting with
134 the county under the provisions of this subsection shall give bond
135 or other surety payable to the county in an amount as the board of
136 supervisors deems sufficient. Any private attorney with whom the
137 county contracts under the provisions of this subsection must be a
138 member in good standing of The Mississippi Bar. Any private
139 collection agent or agency with whom the county contracts under
140 the provisions of this subsection must meet all licensing
141 requirements for doing business in the State of Mississippi.
142 Neither the county nor any officer or employee of the county shall
143 be liable, civilly or criminally, for any wrongful or unlawful act
144 or omission of any person or business with whom the county has
145 contracted under the provisions of this subsection. The
146 Mississippi Department of Audit shall establish rules and
147 regulations for use by counties in contracting with persons or
148 businesses under the provisions of this subsection.

149 (3) In addition to the authority granted under subsection
150 (2) of this section, the board of supervisors of any county, in
151 its discretion, may contract with one or more of the constables of
152 the county to collect delinquent criminal fines imposed in the
153 justice court of the county. Any such contract shall provide for
154 payment contingent upon successful collection efforts, and the
155 amount paid to a constable may not exceed twenty-five percent
156 (25%) of the amount which the constable collects. The entire
157 amount of all delinquent criminal fines collected under such a
158 contract shall be remitted by the constable to the clerk of the
159 justice court for deposit into the county general fund as provided

160 under Section 9-11-19. Any payments made to a constable pursuant
161 to a contract executed under the provisions of this section may be
162 paid only after presentation to and approval by the board of
163 supervisors of the county.

164 (4) If a county uses its own employees to collect any type
165 of delinquent payment owed to the county, then from and after July
166 1, 2006, the county may charge an additional fee for collection of
167 the delinquent payment provided the payment has been delinquent
168 for ten (10) days. The collection fee may not exceed twenty-five
169 percent (25%) of the delinquent payment if the collection is made
170 within this state and may not exceed fifty percent (50%) of the
171 delinquent payment if the collection is made outside this state.
172 In conducting collection of delinquent payments, the county may
173 utilize credit cards or electronic fund transfers. The county may
174 pay any service fees for the use of such methods of collection
175 from the collection fee, but not from the delinquent payment.

176 (5) In addition to the authority * * * granted under this
177 section, the board of supervisors of any county may expend funds
178 necessary to maintain and repair, and to purchase liability
179 insurance, tags and decals for, any personal property acquired
180 under the Federal Excess Personal Property Program that is used by
181 the local volunteer fire department.

182 (6) The board of supervisors of any county, in its
183 discretion, may expend funds to provide for training and education
184 of newly elected or appointed county officials before the
185 beginning of the term of office or employment of those officials.
186 Any expenses incurred for such purposes may be allowed only upon
187 prior approval of the board of supervisors. Any payments or
188 reimbursements made under the provisions of this subsection may be
189 paid only after presentation to and approval by the board of
190 supervisors.

191 (7) The board of supervisors of any county may expend funds
192 to purchase, maintain and repair equipment for the electronic

193 filing and storage of filings, files, instruments, documents and
194 records using microfilm, microfiche, data processing, magnetic
195 tape, optical discs, computers or other electronic process which
196 correctly and legibly stores and reproduces or which forms a
197 medium for storage, copying or reproducing documents, files and
198 records for use by one (1), all or any combination of county
199 offices, employees and officials, whether appointed or elected.

200 (8) In addition to the authority granted in this section,
201 the board of supervisors of any county may expend funds as
202 provided in Section 29-3-23(2).

203 (9) The board of supervisors of any county may perform and
204 exercise any duty, responsibility or function, may enter into
205 agreements and contracts, may provide and deliver any services or
206 assistance, and may receive, expend and administer any grants,
207 gifts, matching funds, loans or other monies, in accordance with
208 and as may be authorized by any federal law, rule or regulation
209 creating, establishing or providing for any program, activity or
210 service. The provisions of this paragraph shall not be construed
211 as authorizing any county, the board of supervisors of any county
212 or any member of a board of supervisors to perform any function or
213 activity that is specifically prohibited under the laws of this
214 state or as granting any authority in addition to or in conflict
215 with the provisions of any federal law, rule or regulation.

216 (10) The board of supervisors of any county may provide
217 funds from any available source to assist in defraying the actual
218 expenses to maintain an office as provided in Section 9-1-36. The
219 authority provided in this subsection shall apply to any office
220 regardless of ownership of the office or who may be making any
221 lease payments for the office.

222 **SECTION 3.** Section 21-17-1, Mississippi Code of 1972, is
223 amended as follows:

224 21-17-1. (1) Every municipality of this state shall be a
225 municipal corporation and shall have power to sue and be sued; to

226 purchase and hold real estate, either within or without the
227 corporate limits, for all proper municipal purposes, including
228 parks, cemeteries, hospitals, schoolhouses, houses of correction,
229 waterworks, electric lights, sewers and other proper municipal
230 purposes; to purchase and hold personal property for all proper
231 municipal purposes; to acquire equipment and machinery by
232 lease-purchase agreement and to pay interest thereon, if
233 contracted, when needed for proper municipal purposes; to sell and
234 convey any real and personal property owned by it, and make such
235 order respecting the same as may be deemed conducive to the best
236 interest of the municipality, and exercise jurisdiction over the
237 same.

238 (2) (a) In case any of the real property belonging to a
239 municipality shall cease to be used for municipal purposes, the
240 governing authority of the municipality may sell, convey or lease
241 the same on such terms as the municipal authority may elect. In
242 case of a sale on a credit, the municipality shall charge
243 appropriate interest as contracted and shall have a lien on the
244 same for the purchase money, as against all persons, until paid
245 and may enforce the lien as in such cases provided by law. The
246 deed of conveyance in such cases shall be executed in the name of
247 the municipality by the governing authority of the municipality
248 pursuant to an order entered on the minutes. In any sale or
249 conveyance of real property, the municipality shall retain all
250 mineral rights that it owns, together with the right of ingress
251 and egress to remove same. Except as otherwise provided in this
252 section, before any * * * lease, deed or conveyance is executed,
253 the governing authority of the municipality shall publish at least
254 once each week for three (3) consecutive weeks, in a public
255 newspaper of the municipality in which the real property is
256 located, or if no newspaper be published as such, then in a
257 newspaper having general circulation therein, the intention to
258 lease or sell, as the case may be, the municipally owned real

259 property and to accept sealed competitive bids for the leasing or
260 sale. The governing authority of the municipality shall
261 thereafter accept bids for the lease or sale and shall award the
262 lease or sale to the highest bidder in the manner provided by law.
263 However, whenever the governing authority of the municipality
264 shall find and determine, by resolution duly and lawfully adopted
265 and spread upon its minutes (i) that any municipally owned real
266 property is no longer needed for municipal or related purposes and
267 is not to be used in the operation of the municipality, (ii) that
268 the sale of the property in the manner otherwise provided by law
269 is not necessary or desirable for the financial welfare of the
270 municipality, and (iii) that the use of the property for the
271 purpose for which it is to be sold, conveyed or leased will
272 promote and foster the development and improvement of the
273 community in which it is located and the civic, social,
274 educational, cultural, moral, economic or industrial welfare
275 thereof, the governing authority of the municipality shall be
276 authorized and empowered, in its discretion, to sell, convey or
277 lease same for any of the purposes set forth herein without having
278 to advertise for and accept competitive bids.

279 (b) In any case in which a municipality proposes to
280 sell, convey or lease real property under the provisions of this
281 subsection (2) without advertising for and accepting competitive
282 bids, the governing authority may sell, convey or lease the
283 property as follows:

284 (i) Consideration for the purchase, conveyance or
285 lease of the property shall be not less than the average of the
286 fair market price for the property as determined by three (3)
287 professional property appraisers selected by the municipality and
288 approved by the purchaser or lessee. Appraisal fees shall be
289 shared equally by the municipality and the purchaser or lessee; or

290 (ii) The governing authority of a municipality may
291 contract for the professional services of a Mississippi licensed

292 real estate broker to assist the municipality in the marketing and
293 sale or lease of the property, and may provide the broker
294 reasonable compensation for services rendered to be paid from the
295 sale or lease proceeds. The reasonable compensation shall not
296 exceed the usual and customary compensation for similar services
297 within the municipality.

298 (3) Whenever the governing authority of the municipality
299 shall find and determine by resolution duly and lawfully adopted
300 and spread upon the minutes that municipally owned real property
301 is not used for municipal purposes and therefore surplus as set
302 forth in subsection (2) of this section:

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

320 (b) The governing authority may donate the lands to a
321 bona fide not-for-profit corporation (such as Habitat for
322 Humanity) which is primarily engaged in the construction of
323 housing for persons who otherwise can afford to live only in
324 substandard housing. In any such deed or conveyance, the

325 municipality shall retain all mineral rights that it owns,
326 together with the right of ingress and egress to remove same;

327 (c) In the event the governing authority does not wish
328 to donate title to the lands to the bona fide not-for-profit civic
329 or eleemosynary corporation, but wishes to retain title to the
330 lands, the governing authority may lease the lands to a bona fide
331 not-for-profit corporation described in paragraph (a) or (b) for
332 less than fair market value;

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

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

350 (5) (a) The governing authority of any municipality may
351 establish an employer-assisted housing program to provide funds to
352 eligible employees to be used toward the purchase of a home. This
353 assistance may be applied toward the down payment, closing costs
354 or any other fees or costs associated with the purchase of a home.
355 The housing assistance may be in the form of a grant, forgivable
356 loan or repayable loan. The governing authority of a municipality
357 may contract with one or more public or private entities to

358 provide assistance in implementing and administering the program
359 and shall adopt rules and regulations regarding the eligibility of
360 a municipality for the program and for the implementation and
361 administration of the program. However, no general funds of a
362 municipality may be used for a grant or loan under the program.

363 (b) Participation in the program established under this
364 subsection (5) shall be available to any eligible municipal
365 employee as determined by the governing authority of the
366 municipality. Any person who receives financial assistance under
367 the program must purchase a house and reside within certain
368 geographic boundaries as determined by the governing authority of
369 the municipality.

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

378 (6) The governing authority of any municipality may contract
379 with a private attorney or private collection agent or agency to
380 collect any type of delinquent payment owed to the municipality,
381 including, but not limited to, past due fees, fines and
382 assessments. Any such contract debt may provide for payment
383 contingent upon successful collection efforts or payment based
384 upon a percentage of the delinquent amount collected; however, the
385 entire amount of all delinquent payments collected shall be
386 remitted to the municipality and shall not be reduced by any
387 collection costs or fees. Any private attorney or private
388 collection agent or agency contracting with the municipality under
389 the provisions of this subsection shall give bond or other surety
390 payable to the municipality in an amount as the governing

391 authority of the municipality deems sufficient. Any private
392 attorney with whom the municipality contracts under the provisions
393 of this subsection must be a member in good standing of The
394 Mississippi Bar. Any private collection agent or agency with whom
395 the municipality contracts under the provisions of this subsection
396 must meet all licensing requirements for doing business in the
397 State of Mississippi. Neither the municipality nor any officer or
398 employee of the municipality shall be liable, civilly or
399 criminally, for any wrongful or unlawful act or omission of any
400 person or business with whom the municipality has contracted under
401 the provisions of this subsection. The Mississippi Department of
402 Audit shall establish rules and regulations for use by
403 municipalities in contracting with persons or businesses under the
404 provisions of this subsection. If a municipality uses its own
405 employees to collect any type of delinquent payment owed to the
406 municipality, then from and after July 1, 2000, the municipality
407 may charge an additional fee for collection of the delinquent
408 payment provided the payment has been delinquent for ten (10)
409 days. The collection fee may not exceed twenty-five percent (25%)
410 of the delinquent payment if the collection is made within this
411 state and may not exceed fifty percent (50%) of the delinquent
412 payment if the collection is made outside this state. In
413 conducting collection of delinquent payments, the municipality may
414 utilize credit cards or electronic fund transfers. The
415 municipality may pay any service fees for the use of such methods
416 of collection from the collection fee, but not from the delinquent
417 payment. There shall be due to the municipality from any person
418 whose delinquent payment is collected under a contract executed as
419 provided in this subsection * * *, in addition to the delinquent
420 payment, an amount not to exceed twenty-five percent (25%) of the
421 delinquent payment for collections made within this state, and not
422 to exceed fifty percent (50%) of the delinquent payment for
423 collections made outside of this state.

424 (7) In addition to the authority * * * otherwise granted
425 under this section, the governing authority of any municipality
426 may expend funds necessary to maintain and repair, and to purchase
427 liability insurance, tags and decals for, any personal property
428 acquired under the Federal Excess Personal Property Program that
429 is used by the local volunteer fire department.

430 (8) The governing authority of any municipality may, in its
431 discretion, donate personal property or funds to the public school
432 district or districts located in the municipality for the
433 promotion of educational programs of the district or districts
434 within the municipality.

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

442 (10) The governing authority of any municipality that owns
443 and operates a gas distribution system, as defined in Section
444 21-27-11(b), and the governing authority of any public natural gas
445 district are authorized to contract for the purchase of the supply
446 of natural gas for a term of up to ten (10) years with any public
447 nonprofit corporation which is organized under the laws of this
448 state or any other state.

449 (11) The powers conferred by this section shall be in
450 addition and supplemental to the powers conferred by any other
451 law, and nothing contained in this section shall be construed to
452 prohibit, or to prescribe conditions concerning, any practice or
453 practices authorized under any other law.

454 **SECTION 4.** This act shall take effect and be in force from
455 and after July 1, 2006.