

By: Representative Hines

To: County Affairs;
Municipalities

HOUSE BILL NO. 609

1 AN ACT TO AMEND SECTIONS 19-3-41 AND 21-17-5, MISSISSIPPI
2 CODE OF 1972, TO REQUIRE MEMBERS OF THE GOVERNING AUTHORITIES OF
3 COUNTIES AND MUNICIPALITIES TO ATTEND AND COMPLETE A COURSE OF
4 TRAINING AND EDUCATION RELATING TO THE DUTIES AND RESPONSIBILITIES
5 OF THEIR RESPECTIVE OFFICES; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 19-3-41, Mississippi Code of 1972, is
8 amended as follows:

9 19-3-41. (1) The boards of supervisors shall have within
10 their respective counties full jurisdiction over roads, ferries
11 and bridges, except as otherwise provided by Section 170 of the
12 Constitution, and all other matters of county police. They shall
13 have jurisdiction over the subject of paupers. They shall have
14 power to levy such taxes as may be necessary to meet the demands
15 of their respective counties, upon such persons and property as
16 are subject to state taxes for the time being, not exceeding the
17 limits that may be prescribed by law. They shall cause to be
18 erected and kept in good repair, in their respective counties, a
19 good and convenient courthouse and a jail. A courthouse shall be
20 erected and kept in good repair in each judicial district and a
21 jail may be erected in each judicial district. They may close a
22 jail in either judicial district, at their discretion, where one
23 (1) jail will suffice. They shall have the power, in their
24 discretion, to prohibit or regulate the sale and use of
25 firecrackers, roman candles, torpedoes, skyrockets, and any and
26 all explosives commonly known and referred to as fireworks,
27 outside the confines of municipalities. They shall have and
28 exercise such further powers as are or shall be conferred upon

29 them by law. They shall have authority to negotiate with and
30 contract with licensed real estate brokers for the purpose of
31 advertising and showing and procuring prospective purchasers for
32 county-owned real property offered for sale in accordance with the
33 provisions of Section 19-7-3.

34 (2) The board of supervisors of any county, in its
35 discretion, may contract with a private attorney or private
36 collection agent or agency to collect any type of delinquent
37 payment owed to the county including, but not limited to, past due
38 fees and fines, delinquent ad valorem taxes on personal property
39 and delinquent ad valorem taxes on mobile homes that are entered
40 as personal property on the mobile home rolls. Any such contract
41 may provide for payment contingent upon successful collection
42 efforts or payment based upon a percentage of the delinquent
43 amount collected; however, the entire amount of all delinquent
44 payments collected shall be remitted to the county and shall not
45 be reduced by any collection costs or fees. There shall be due to
46 the county from any person whose delinquent payment is collected
47 pursuant to a contract executed under this subsection an amount,
48 in addition to the delinquent payment, of not to exceed
49 twenty-five percent (25%) of the delinquent payment for
50 collections made within this state and not to exceed fifty percent
51 (50%) of the delinquent payment for collections made outside of
52 this state. However, in the case of delinquent fees owed to the
53 county for garbage or rubbish collection or disposal, only the
54 amount of the delinquent fees may be collected and no amount in
55 addition to the delinquent fees may be collected if the board of
56 supervisors of the county has notified the county tax collector
57 under Section 19-5-22 for the purpose of prohibiting the issuance
58 of a motor vehicle road and bridge privilege license tag to the
59 person delinquent in the payment of such fees. Any private
60 attorney or private collection agent or agency contracting with
61 the county under the provisions of this subsection shall give bond

62 or other surety payable to the county in such amount as the board
63 of supervisors deems sufficient. Any private attorney with whom
64 the county contracts under the provisions of this subsection must
65 be a member in good standing of The Mississippi Bar. Any private
66 collection agent or agency with whom the county contracts under
67 the provisions of this subsection must meet all licensing
68 requirements for doing business in the State of Mississippi.
69 Neither the county nor any officer or employee of the county shall
70 be liable, civilly or criminally, for any wrongful or unlawful act
71 or omission of any person or business with whom the county has
72 contracted under the provisions of this subsection. The
73 Mississippi Department of Audit shall establish rules and
74 regulations for use by counties in contracting with persons or
75 businesses under the provisions of this subsection.

76 (3) In addition to the authority granted under subsection
77 (2) of this section, the board of supervisors of any county, in
78 its discretion, may contract with one or more of the constables of
79 the county to collect delinquent criminal fines imposed in the
80 justice court of the county. Any such contract shall provide for
81 payment contingent upon successful collection efforts, and the
82 amount paid to a constable may not exceed twenty-five percent
83 (25%) of the amount which the constable collects. The entire
84 amount of all delinquent criminal fines collected under such a
85 contract shall be remitted by the constable to the clerk of the
86 justice court for deposit into the county general fund as provided
87 under Section 9-11-19. Any payments made to a constable pursuant
88 to a contract executed under the provisions of this section may be
89 paid only after presentation to and approval by the board of
90 supervisors of the county.

91 (4) If a county uses its own employees to collect any type
92 of delinquent payment owed to the county, then from and after July
93 1, 1999, the county may charge an additional fee for collection of
94 the delinquent payment provided the payment has been delinquent

95 for ninety (90) days. The collection fee may not exceed fifteen
96 percent (15%) of the delinquent payment if the collection is made
97 within this state and may not exceed twenty-five percent (25%) of
98 the delinquent payment if the collection is made outside this
99 state. In conducting collection of delinquent payments, the
100 county may utilize credit cards or electronic fund transfers. The
101 county may pay any service fees for the use of such methods of
102 collection from the collection fee, but not from the delinquent
103 payment.

104 (5) In addition to such authority as is otherwise granted
105 under this section, the board of supervisors of any county may
106 expend funds necessary to maintain and repair, and to purchase
107 liability insurance, tags and decals for, any personal property
108 acquired under the Federal Excess Personal Property Program that
109 is used by the local volunteer fire department.

110 (6) (a) The board of supervisors of any county, in its
111 discretion, may expend funds to provide for training and education
112 of newly elected or appointed county officials before the
113 beginning of the term of office or employment of such officials.
114 Any expenses incurred for such purposes may be allowed only upon
115 prior approval of the board of supervisors. Any payments or
116 reimbursements made under the provisions of this subsection may be
117 paid only after presentation to and approval by the board of
118 supervisors.

119 (b) Within ninety (90) days after taking office, each
120 member of the board of supervisors shall attend and complete a
121 course of training and education relating to the duties and
122 responsibilities of members of the board of supervisors. The
123 course shall be a total of forty (40) hours in duration and shall
124 be conducted by the Attorney General, the Secretary of State and
125 the State Auditor, or the designees of such officials. Any
126 expenses for such training shall be paid out of any available
127 funds of the county.

128 (7) The board of supervisors of any county may expend funds
129 to purchase, maintain and repair equipment for the electronic
130 filing and storage of filings, files, instruments, documents and
131 records using microfilm, microfiche, data processing, magnetic
132 tape, optical discs, computers or other electronic process which
133 correctly and legibly stores and reproduces or which forms a
134 medium for storage, copying or reproducing documents, files and
135 records for use by one (1), all or any combination of county
136 offices, employees and officials, whether appointed or elected.

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

140 (9) The board of supervisors of any county may perform and
141 exercise any duty, responsibility or function, may enter into
142 agreements and contracts, may provide and deliver any services or
143 assistance, and may receive, expend and administer any grants,
144 gifts, matching funds, loans or other monies, in accordance with
145 and as may be authorized by any federal law, rule or regulation
146 creating, establishing or providing for any program, activity or
147 service. The provisions of this paragraph shall not be construed
148 as authorizing any county, the board of supervisors of any county
149 or any member of a board of supervisors to perform any function or
150 activity that is specifically prohibited under the laws of this
151 state or as granting any authority in addition to or in conflict
152 with the provisions of any federal law, rule or regulation.

153 **SECTION 2.** Section 21-17-5, Mississippi Code of 1972, is
154 amended as follows:

155 21-17-5. (1) The governing authorities of every
156 municipality of this state shall have the care, management and
157 control of the municipal affairs and its property and finances.
158 In addition to those powers granted by specific provisions of
159 general law, the governing authorities of municipalities shall
160 have the power to adopt any orders, resolutions or ordinances with

161 respect to such municipal affairs, property and finances which are
162 not inconsistent with the Mississippi Constitution of 1890, the
163 Mississippi Code of 1972, or any other statute or law of the State
164 of Mississippi, and shall likewise have the power to alter, modify
165 and repeal such orders, resolutions or ordinances. Except as
166 otherwise provided in subsection (2) of this section, the powers
167 granted to governing authorities of municipalities in this section
168 are complete without the existence of or reference to any specific
169 authority granted in any other statute or law of the State of
170 Mississippi. Unless otherwise provided by law, before entering
171 upon the duties of their respective offices, the aldermen or
172 councilmen of every municipality of this state shall give bond,
173 with sufficient surety, to be payable, conditioned and approved as
174 provided by law, in a penalty equal to five percent (5%) of the
175 sum of all the municipal taxes shown by the assessment rolls and
176 the levies to have been collectible in the municipality for the
177 year immediately preceding the commencement of the term of office
178 of said alderman or councilman; however, such bond shall not
179 exceed the amount of One Hundred Thousand Dollars (\$100,000.00).
180 Any taxpayer of the municipality may sue on such bond for the use
181 of the municipality, and such taxpayer shall be liable for all
182 costs in case his suit shall fail. No member of the city council
183 or board of aldermen shall be surety for any other such member.

184 (2) Unless such actions are specifically authorized by
185 another statute or law of the State of Mississippi, this section
186 shall not authorize the governing authorities of municipalities to
187 (a) levy taxes of any kind or increase the levy of any authorized
188 tax, (b) issue bonds of any kind, (c) change the requirements,
189 practices or procedures for municipal elections or establish any
190 new elective office, (d) change the procedure for annexation of
191 additional territory into the municipal boundaries, (e) change the
192 structure or form of the municipal government, (f) permit the
193 sale, manufacture, distribution, possession or transportation of

194 alcoholic beverages, (g) grant any donation, or (h) without prior
195 legislative approval, regulate, directly or indirectly, the amount
196 of rent charged for leasing private residential property in which
197 the municipality does not have a property interest.

198 (3) Nothing in this or any other section shall be construed
199 so as to prevent any municipal governing authority from paying any
200 municipal employee not to exceed double his ordinary rate of pay
201 or awarding any municipal employee not to exceed double his
202 ordinary rate of compensatory time for work performed in his
203 capacity as a municipal employee on legal holidays. The governing
204 authority of any municipality, in its discretion, may enact leave
205 policies to ensure that public safety employees receive the same
206 holiday benefits as other municipal employees when the public
207 safety employee's regular day off occurs on a legal holiday.

208 (4) (a) The governing authority of any municipality, in its
209 discretion, may expend funds to provide for training and education
210 of newly elected or appointed municipal officials before the
211 beginning of the term of office or employment of such officials.
212 Any expenses incurred for such purposes may be allowed only upon
213 prior approval of the governing authority. Any payments or
214 reimbursements made under the provisions of this subsection may be
215 paid only after presentation to and approval by the governing
216 authority of the municipality.

217 (b) Within ninety (90) days after taking office, each
218 member of the governing authorities shall attend and complete a
219 course of training and education relating to the duties and
220 responsibilities of municipal governing authorities. The course
221 shall be a total of forty (40) hours in duration and shall be
222 conducted by the Attorney General, the Secretary of State and the
223 State Auditor, or the designees of such officials. Any expenses
224 for such training shall be paid out of any available funds of the
225 municipality.

226 **SECTION 3.** This act shall take effect and be in force from
227 and after July 1, 2007.