

By: Representative Reeves

To: Municipalities

## HOUSE BILL NO. 1150

1 AN ACT TO AMEND SECTION 21-17-1, MISSISSIPPI CODE OF 1972, TO  
2 AUTHORIZE THE GOVERNING AUTHORITIES OF ANY MUNICIPALITY TO CONVEY  
3 MUNICIPALLY OWNED REAL PROPERTY TO ANY PERSON OR LEGAL ENTITY,  
4 WITHOUT PUBLIC NOTICE, WITHOUT HAVING TO ADVERTISE FOR AND ACCEPT  
5 COMPETITIVE BIDS, WITHOUT APPRAISAL AND WITH OR WITHOUT  
6 CONSIDERATION IF THE GOVERNING AUTHORITIES DETERMINE THAT SUCH  
7 PROPERTY IS NO LONGER NEEDED FOR MUNICIPAL OR RELATED PURPOSES AND  
8 THAT THE CONVEYANCE THEREOF WILL PROMOTE AND FOSTER THE  
9 DEVELOPMENT AND IMPROVEMENT OF THE COMMUNITY IN WHICH IT IS  
10 LOCATED; AND FOR RELATED PURPOSES.

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

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

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

28 (2) (a) In case any of the real property belonging to a  
29 municipality shall cease to be used for municipal purposes, the  
30 governing authority of the municipality may sell, convey or lease  
31 the same on such terms as the municipal authority may elect. In

32 case of a sale on a credit, the municipality shall charge  
33 appropriate interest as contracted and shall have a lien on the  
34 same for the purchase money, as against all persons, until paid  
35 and may enforce the lien as in such cases provided by law. The  
36 deed of conveyance in such cases shall be executed in the name of  
37 the municipality by the governing authority of the municipality  
38 pursuant to an order entered on the minutes. In any sale or  
39 conveyance of real property, the municipality shall retain all  
40 mineral rights that it owns, together with the right of ingress  
41 and egress to remove same. Except as otherwise provided in this  
42 section, before any such lease, deed or conveyance is executed,  
43 the governing authority of the municipality shall publish at least  
44 once each week for three (3) consecutive weeks, in a public  
45 newspaper of the municipality in which the real property is  
46 located, or if no newspaper be published as such, then in a  
47 newspaper having general circulation therein, the intention to  
48 lease or sell, as the case may be, the municipally owned real  
49 property and to accept sealed competitive bids for the leasing or  
50 sale. The governing authority of the municipality shall  
51 thereafter accept bids for the lease or sale and shall award the  
52 lease or sale to the highest bidder in the manner provided by law.  
53 However, whenever the governing authority of the municipality  
54 shall find and determine, by resolution duly and lawfully adopted  
55 and spread upon its minutes (i) that any municipally owned real  
56 property is no longer needed for municipal or related purposes and  
57 is not to be used in the operation of the municipality, (ii) that  
58 the sale of such property in the manner otherwise provided by law  
59 is not necessary or desirable for the financial welfare of the  
60 municipality, and (iii) that the use of such property for the  
61 purpose for which it is to be sold, conveyed or leased will  
62 promote and foster the development and improvement of the  
63 community in which it is located and the civic, social,  
64 educational, cultural, moral, economic or industrial welfare

65 thereof, the governing authority of the municipality shall be  
66 authorized and empowered, in its discretion, to sell, convey or  
67 lease same for any of the purposes set forth herein without having  
68 to advertise for and accept competitive bids.

69 (b) In any case in which a municipality proposes to  
70 sell, convey or lease real property under the provisions of this  
71 subsection (2) without advertising for and accepting competitive  
72 bids, the governing authority may sell, convey or lease the  
73 property as follows:

74 (i) Consideration for the purchase, conveyance or  
75 lease of the property shall be not less than the average of the  
76 fair market price for such property as determined by three (3)  
77 professional property appraisers selected by the municipality and  
78 approved by the purchaser or lessee. Appraisal fees shall be  
79 shared equally by the municipality and the purchaser or lessee; or

80 (ii) The governing authority of a municipality may  
81 contract for the professional services of a Mississippi licensed  
82 real estate broker to assist the municipality in the marketing and  
83 sale or lease of the property, and may provide the broker  
84 reasonable compensation for services rendered to be paid from the  
85 sale or lease proceeds. The reasonable compensation shall not  
86 exceed the usual and customary compensation for similar services  
87 within the municipality.

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

93 (a) The governing authority may donate such lands to a  
94 bona fide not-for-profit civic or eleemosynary corporation  
95 organized and existing under the laws of the State of Mississippi  
96 and granted tax exempt status by the Internal Revenue Service and  
97 may donate such lands and necessary funds related thereto to the

98 public school district in which the land is situated for the  
99 purposes set forth herein. Any deed or conveyance executed  
100 pursuant hereto shall contain a clause of reverter providing that  
101 the bona fide not-for-profit corporation or public school district  
102 may hold title to such lands only so long as they are continued to  
103 be used for the civic, social, educational, cultural, moral,  
104 economic or industrial welfare of the community, and that title  
105 shall revert to the municipality in the event of the cessation of  
106 such use for a period of two (2) years. In any such deed or  
107 conveyance, the municipality shall retain all mineral rights that  
108 it owns, together with the right of ingress and egress to remove  
109 same;

110 (b) The governing authority may donate such lands to a  
111 bona fide not-for-profit corporation (such as Habitat for  
112 Humanity) which is primarily engaged in the construction of  
113 housing for persons who otherwise can afford to live only in  
114 substandard housing. In any such deed or conveyance, the  
115 municipality shall retain all mineral rights that it owns,  
116 together with the right of ingress and egress to remove same;

117 (c) In the event the governing authority does not wish  
118 to donate title to such lands to the bona fide not-for-profit  
119 civic or eleemosynary corporation, but wishes to retain title to  
120 the lands, the governing authority may lease the lands to a bona  
121 fide not-for-profit corporation described in paragraph (a) or (b)  
122 for less than fair market value;

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

126 (4) Every municipality shall also be authorized and  
127 empowered to loan to private persons or entities, whether  
128 organized for profit or nonprofit, funds received from the United  
129 States Department of Housing and Urban Development (HUD) under an  
130 urban development action grant or a community development block

131 grant under the Housing and Community Development Act of 1974  
132 (Public Law 93-383), as amended, and to charge interest thereon if  
133 contracted, provided that no such loan shall include any funds  
134 from any revenues other than the funds from the United States  
135 Department of Housing and Urban Development; to make all contracts  
136 and do all other acts in relation to the property and affairs of  
137 the municipality necessary to the exercise of its governmental,  
138 corporate and administrative powers; and to exercise such other or  
139 further powers as are otherwise conferred by law.

140 (5) (a) The governing authority of any municipality may  
141 establish an employer-assisted housing program to provide funds to  
142 eligible employees to be used toward the purchase of a home. This  
143 assistance may be applied toward the down payment, closing costs  
144 or any other fees or costs associated with the purchase of a home.  
145 The housing assistance may be in the form of a grant, forgivable  
146 loan or repayable loan. The governing authority of a municipality  
147 may contract with one or more public or private entities to  
148 provide assistance in implementing and administering the program  
149 and shall adopt rules and regulations regarding the eligibility of  
150 a municipality for the program and for the implementation and  
151 administration of the program. However, no general funds of a  
152 municipality may be used for a grant or loan under the program.

153 (b) Participation in the program established under this  
154 subsection (5) shall be available to any eligible municipal  
155 employee as determined by the governing authority of the  
156 municipality. Any person who receives financial assistance under  
157 the program must purchase a house and reside within certain  
158 geographic boundaries as determined by the governing authority of  
159 the municipality.

160 (c) If the assistance authorized under this subsection  
161 (5) is structured as a forgivable loan, the participating employee  
162 must remain as an employee of the municipality for an agreed upon  
163 period of time, as determined by the rules and regulations adopted

164 by the governing authority of the municipality, in order to have  
165 the loan forgiven. The forgiveness structure, amount of  
166 assistance and repayment terms shall be determined by the  
167 governing authority of the municipality.

168 (6) The governing authority of any municipality may contract  
169 with a private attorney or private collection agent or agency to  
170 collect any type of delinquent payment owed to the municipality,  
171 including, but not limited to, past due fees and fines. Any such  
172 contract debt may provide for payment contingent upon successful  
173 collection efforts or payment based upon a percentage of the  
174 delinquent amount collected; however, the entire amount of all  
175 delinquent payments collected shall be remitted to the  
176 municipality and shall not be reduced by any collection costs or  
177 fees. Any private attorney or private collection agent or agency  
178 contracting with the municipality under the provisions of this  
179 subsection shall give bond or other surety payable to the  
180 municipality in such amount as the governing authority of the  
181 municipality deems sufficient. Any private attorney with whom the  
182 municipality contracts under the provisions of this subsection  
183 must be a member in good standing of The Mississippi Bar. Any  
184 private collection agent or agency with whom the municipality  
185 contracts under the provisions of this subsection must meet all  
186 licensing requirements for doing business in the State of  
187 Mississippi. Neither the municipality nor any officer or employee  
188 of the municipality shall be liable, civilly or criminally, for  
189 any wrongful or unlawful act or omission of any person or business  
190 with whom the municipality has contracted under the provisions of  
191 this subsection. The Mississippi Department of Audit shall  
192 establish rules and regulations for use by municipalities in  
193 contracting with persons or businesses under the provisions of  
194 this subsection. If a municipality uses its own employees to  
195 collect any type of delinquent payment owed to the municipality,  
196 then from and after July 1, 2000, the municipality may charge an

197 additional fee for collection of the delinquent payment provided  
198 the payment has been delinquent for ninety (90) days. The  
199 collection fee may not exceed fifteen percent (15%) of the  
200 delinquent payment if the collection is made within this state and  
201 may not exceed twenty-five percent (25%) of the delinquent payment  
202 if the collection is made outside this state. In conducting  
203 collection of delinquent payments, the municipality may utilize  
204 credit cards or electronic fund transfers. The municipality may  
205 pay any service fees for the use of such methods of collection  
206 from the collection fee, but not from the delinquent payment.  
207 There shall be due to the municipality from any person whose  
208 delinquent payment is collected under a contract executed as  
209 provided in this subsection an amount, in addition to the  
210 delinquent payment, of not to exceed twenty-five percent (25%) of  
211 the delinquent payment for collections made within this state, and  
212 not to exceed fifty percent (50%) of the delinquent payment for  
213 collections made outside of this state.

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

220 (8) The governing authority of any municipality may, in its  
221 discretion, donate personal property or funds to the public school  
222 district or districts located in the municipality for the  
223 promotion of educational programs of the district or districts  
224 within the municipality.

225 (9) In addition to the authority to expend matching funds  
226 under Section 21-19-65, the governing authority of any  
227 municipality, in its discretion, may expend municipal funds to  
228 match any state, federal or private funding for any program  
229 administered by the State of Mississippi, the United States

230 government or any nonprofit organization that is exempt under 26  
231 USCS Section 501(c)(3) from paying federal income tax.

232 (10) The governing authority of any municipality that owns  
233 and operates a gas distribution system, as defined in Section  
234 21-27-11(b), and the governing authority of any public natural gas  
235 district are authorized to contract for the purchase of the supply  
236 of natural gas for a term of up to ten (10) years with any public  
237 nonprofit corporation which is organized under the laws of this  
238 state or any other state.

239 (11) In addition to such authority as is otherwise granted  
240 under this section, whenever the governing authorities of any  
241 municipality find and determine, by resolution duly and lawfully  
242 adopted and spread upon their official minutes (a) that any  
243 municipally owned real property is no longer needed for municipal  
244 or related purposes and is not to be used in the operation of the  
245 municipality, (b) that the sale of such property in the manner  
246 otherwise provided by law is not necessary or desirable for the  
247 financial welfare of the municipality, and (c) that the use of  
248 such property for the purpose for which it is to be conveyed will  
249 promote and foster the development and improvement of the  
250 community in which it is located or the civic, social,  
251 educational, cultural, moral, economic or industrial welfare  
252 thereof, the governing authorities of the municipality, in their  
253 discretion, may sell, lease, donate or otherwise convey such  
254 property to any person or legal entity without public notice,  
255 without having to advertise for and accept competitive bids,  
256 without appraisal, with or without consideration and on such terms  
257 and conditions as the parties may agree. All costs associated  
258 with the conveyance shall be paid by the person or entity to whom  
259 the conveyance is made. Any deed or instrument of conveyance  
260 executed pursuant to the authority granted under this subsection  
261 shall contain a clause of reverter providing that the person or  
262 entity to whom the property is conveyed may hold title to such

263 lands only so long as the property is used for the purposes for  
264 which it was conveyed, and that title shall revert to the  
265 municipality in the event of the cessation of such use for a  
266 period of two (2) years. In any such deed or instrument of  
267 conveyance, the municipality shall retain all mineral rights that  
268 it owns, together with the right of ingress and egress to remove  
269 same.

270       (12) The powers conferred by this section shall be in  
271 addition and supplemental to the powers conferred by any other  
272 law, and nothing contained in this section shall be construed to  
273 prohibit, or to prescribe conditions concerning, any practice or  
274 practices authorized under any other law.

275       **SECTION 2.** This act shall take effect and be in force from  
276 and after July 1, 2007.