

By: Representative Rushing

To: Municipalities

HOUSE BILL NO. 1112

1 AN ACT TO AMEND SECTION 21-27-23, MISSISSIPPI CODE OF 1972,
 2 TO AUTHORIZE A MUNICIPALITY TO COLLECT RATES FOR SERVICES PROVIDED
 3 BY ITS PUBLIC UTILITIES THROUGH PAYMENT MADE BY CREDIT CARD, AND
 4 TO PROVIDE THE MUNICIPALITY SHALL NOT CHARGE A PROCESSING FEE TO
 5 THE RATE PAYER AS LONG AS THE PAYMENT DOES NOT EXCEED A CERTAIN
 6 AMOUNT; TO AMEND SECTION 21-23-7, MISSISSIPPI CODE OF 1972, TO
 7 PROVIDE THAT MUNICIPAL COURTS MAY ACCEPT PAYMENT FOR CERTAIN
 8 FINES, FEES OR COSTS IMPOSED BY THE COURT BY CREDIT CARD, AND TO
 9 PROVIDE THAT THE MUNICIPALITY SHALL NOT CHARGE A PROCESSING FEE TO
 10 THE PAYER AS LONG AS THE PAYMENT DOES NOT EXCEED A CERTAIN AMOUNT;
 11 TO AMEND SECTION 21-17-5, MISSISSIPPI CODE OF 1972, TO AUTHORIZE A
 12 MUNICIPALITY TO ACCEPT PAYMENT FOR ANY FINES OR FEES ASSOCIATED
 13 WITH ANY PERMITS OR LICENSES OR OTHER SERVICES PROVIDED BY THE
 14 MUNICIPALITY BY CREDIT CARD, AND TO PROVIDE THE MUNICIPALITY SHALL
 15 NOT CHARGE A PROCESSING FEE TO THE PAYER AS LONG AS THE PAYMENT
 16 DOES NOT EXCEED A CERTAIN AMOUNT; AND FOR RELATED PURPOSES.

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

18 **SECTION 1.** Section 21-27-23, Mississippi Code of 1972, is
 19 amended as follows:

20 21-27-23. Any municipality may:

21 (a) Borrow money and issue revenue bonds therefor
 22 solely for the purposes specified in this section and by the
 23 procedure provided in Sections 21-27-41 through 21-27-69.

24 Money may be borrowed and bonds issued by any municipality of
 25 the State of Mississippi, as defined in Section 21-27-11, to



26 acquire or improve any waterworks system, water supply system,
27 sewerage system, sewage disposal system, garbage disposal system,
28 rubbish disposal system or incinerators, gas producing system, gas
29 generating system, gas transmission system, or gas distribution
30 system, electric generating, transmission or distribution system,
31 railroad transportation system for passengers and freight, or
32 motor vehicle transportation system, including any combination of
33 any or all of those systems into one (1) system, within or without
34 the corporate limits thereof, for the purpose of supplying the
35 municipality and the persons and corporations, both public and
36 private, whether within or without its corporate limits, with the
37 services and facilities afforded by the system, provided that
38 water, electric energy, or gas afforded by any system or systems
39 may be supplied to such ultimate consumers thereof by sale thereof
40 to the owners or operators of a distribution system for resale to
41 the public. Any municipality which shall borrow money and issue
42 revenue bonds to provide funds with which to acquire a gas
43 transmission system, if necessary in order to reach and obtain a
44 source of supply of gas for the municipality, may extend or
45 construct its gas transmission line into an adjoining state, and
46 may use and expend part of the proceeds of such issue of revenue
47 bonds for the purpose.

48 (b) To assume all indebtedness for any system or
49 systems which may be acquired under the provisions of this section
50 as all or part of the consideration for the acquisition of such



51 system or systems and to issue its revenue bonds in exchange for
52 the bonds or notes evidencing the indebtedness.

53 (c) To acquire or improve any system which it is
54 authorized to borrow money and issue revenue bonds under
55 subsection (a) of this section to acquire or improve; and to make
56 contracts in furtherance thereof or in connection therewith.

57 (d) To own, operate and maintain any such system or
58 combination of any and all of said systems into one (1) system.

59 (e) To establish, maintain and collect rates for the
60 facilities and services offered by any such system; provided that
61 if there is a combination of systems into one or more systems, the
62 municipality establishing the same shall be and is empowered to
63 establish, maintain and collect rates for any and all of the
64 services or for any combination thereof, and the municipality may
65 discontinue any or all of the services upon any failure to
66 promptly pay the charges fixed for the services. The rates so
67 fixed for services rendered by any system or combination thereof
68 may be charged for all services rendered thereby, regardless of
69 whether the services may have been previously rendered without
70 rates or charges therefor by the previously existing waterworks
71 system, water supply system, sewerage system, sewage disposal
72 system, garbage disposal system, rubbish disposal system or
73 incinerators, gas producing system, gas generating system, gas
74 transmission system, or gas distribution system, electric
75 generating, transmission or distribution system, which shall have



76 been merged into the combined system. Any such municipality may
77 pledge for the payment of any bonds issued to acquire or improve
78 any such combined system, or to refund any bonds previously issued
79 to acquire or improve any such combined system or to acquire or
80 improve any system merged with such combined system, the revenues
81 to be derived from the operation of such combined system,
82 including the charges authorized to be imposed by this section.

83 A municipality may authorize a municipally owned utility to
84 make early payment of the utility's bills to its electricity
85 suppliers which offer early payment discounts to the municipally
86 owned utility. The municipality may immediately refund to a
87 customer of the municipally owned utility his or her deposit for
88 municipal utility services after the municipal utility has
89 determined that payment for all services and any other obligations
90 which the customer may have incurred in regard to the municipal
91 utility has been made.

92 If the revenues of any previously existing system being
93 merged into a combined system are subject to a prior lien, the
94 revenues and the expenses of any previously existing system shall
95 be accounted for separately to the extent necessary to satisfy the
96 covenants relating to the prior lien for so long as the
97 indebtedness secured by the revenues shall remain outstanding.
98 Only surplus revenues remaining after the satisfaction of all
99 covenants relating to the outstanding indebtedness may be pledged
100 to the retirement of any indebtedness to be secured by the



101 revenues of a combined system. The existence of the outstanding
102 indebtedness shall not, in and of itself, prevent the combining of
103 systems as herein provided, so long as the prior lien on the
104 revenues of any previously existing system is fully satisfied from
105 the revenues of the previously existing system.

106 A municipality may collect rates for the services provided by
107 such systems or system through payment made by credit cards and in
108 doing so, the municipality in exchange of the acceptance of this
109 payment method and in recognition of the reduction of other
110 municipal costs connected with the acceptance of such funds by
111 this method, such municipality shall not charge any transaction or
112 processing fee that is charged to the municipality for this method
113 of payment to the rate payor, provided the individual payment or
114 transaction does not exceed Five Thousand Dollars (\$5,000.00).

115 (f) To acquire property, real or personal, which may be
116 necessary to effectuate the powers conferred by this section. The
117 municipality may purchase electric transmission line materials,
118 electric distribution system substation equipment, transformer
119 equipment, and all other appliances, apparatus, machinery,
120 equipment and appurtenances necessary for the sale of electricity,
121 such as utility vehicles and fencing, from the surplus inventory
122 of the Tennessee Valley Authority or any other similar agency of
123 the federal government and electric power associations. These
124 purchases by the municipality shall be exempt from the public bid
125 requirements prescribed in Sections 31-7-12 and 31-7-13. If the



126 power of eminent domain is exercised, it shall be exercised in the
127 manner provided by Sections 11-27-1 through 11-27-51.

128 (g) To enter into contract with the United States of
129 America or any agency thereof, under the provisions of acts of the
130 Congress of the United States, to aid or encourage public works
131 and the regulations made in pursuance thereof, for the sale of
132 bonds issued in accordance with the provisions of Sections
133 21-27-41 through 21-27-69 or for the acceptance of a grant to aid
134 such municipality in acquiring or improving any such system; and
135 the contracts may contain terms and conditions as may be agreed
136 upon by and between the municipality and the United States of
137 America or any agency thereof, or any purchaser of the bonds.

138 (h) To adopt the ordinances and resolutions and to do
139 all things and perform all acts necessary, proper or desirable to
140 effectuate the full intent and purpose of Sections 21-27-11
141 through 21-27-69, including processing, marketing, custom
142 processing, sale and resale of materials processed through any
143 facility under its jurisdiction.

144 (i) To borrow from the Mississippi Development Bank in
145 order to fund the advance purchase of energy for its gas
146 producing, generating, transmission or distribution system or its
147 electric generating, transmission or distribution system.

148 **SECTION 2.** Section 21-23-7, Mississippi Code of 1972, is
149 amended as follows:



150 21-23-7. (1) The municipal judge shall hold court in a
151 public building designated by the governing authorities of the
152 municipality and may hold court every day except Sundays and legal
153 holidays if the business of the municipality so requires;
154 provided, however, the municipal judge may hold court outside the
155 boundaries of the municipality but not more than within a
156 sixty-mile radius of the municipality to handle preliminary
157 matters and criminal matters such as initial appearances and
158 felony preliminary hearings. The municipal judge may hold court
159 outside the boundaries of the municipality but not more than
160 within a one-mile radius of the municipality for any purpose. The
161 municipal judge shall have the jurisdiction to hear and determine,
162 without a jury and without a record of the testimony, all cases
163 charging violations of the municipal ordinances and state
164 misdemeanor laws made offenses against the municipality and to
165 punish offenders therefor as may be prescribed by law. Except as
166 otherwise provided by law, criminal proceedings shall be brought
167 by sworn complaint filed in the municipal court. Such complaint
168 shall state the essential elements of the offense charged and the
169 statute or ordinance relied upon. Such complaint shall not be
170 required to conclude with a general averment that the offense is
171 against the peace and dignity of the state or in violation of the
172 ordinances of the municipality. He may sit as a committing court
173 in all felonies committed within the municipality, and he shall
174 have the power to bind over the accused to the grand jury or to



175 appear before the proper court having jurisdiction to try the
176 same, and to set the amount of bail or refuse bail and commit the
177 accused to jail in cases not bailable. The municipal judge is a
178 conservator of the peace within his municipality. He may conduct
179 preliminary hearings in all violations of the criminal laws of
180 this state occurring within the municipality, and any person
181 arrested for a violation of law within the municipality may be
182 brought before him for initial appearance. The municipal court
183 shall have jurisdiction of any case remanded to it by a circuit
184 court grand jury. The municipal court shall have civil
185 jurisdiction over actions filed pursuant to and as provided in
186 Title 93, Chapter 21, Mississippi Code of 1972, the Protection
187 from Domestic Abuse Act.

188 (2) In the discretion of the court, where the objects of
189 justice would be more likely met, as an alternative to imposition
190 or payment of fine and/or incarceration, the municipal judge shall
191 have the power to sentence convicted offenders to work on a public
192 service project where the court has established such a program of
193 public service by written guidelines filed with the clerk for
194 public record. Such programs shall provide for reasonable
195 supervision of the offender and the work shall be commensurate
196 with the fine and/or incarceration that would have ordinarily been
197 imposed. Such program of public service may be utilized in the
198 implementation of the provisions of Section 99-19-20, and public



199 service work thereunder may be supervised by persons other than
200 the sheriff.

201 (3) The municipal judge may solemnize marriages, take oaths,
202 affidavits and acknowledgments, and issue orders, subpoenas,
203 summonses, citations, warrants for search and arrest upon a
204 finding of probable cause, and other such process under seal of
205 the court to any county or municipality, in a criminal case, to be
206 executed by the lawful authority of the county or the municipality
207 of the respondent, and enforce obedience thereto. The absence of
208 a seal shall not invalidate the process.

209 (4) When a person shall be charged with an offense in
210 municipal court punishable by confinement, the municipal judge,
211 being satisfied that such person is an indigent person and is
212 unable to employ counsel, may, in the discretion of the court,
213 appoint counsel from the membership of The Mississippi Bar
214 residing in his county who shall represent him. Compensation for
215 appointed counsel in criminal cases shall be approved and allowed
216 by the municipal judge and shall be paid by the municipality. The
217 maximum compensation shall not exceed Two Hundred Dollars
218 (\$200.00) for any one (1) case. The governing authorities of a
219 municipality may, in their discretion, appoint a public
220 defender(s) who must be a licensed attorney and who shall receive
221 a salary to be fixed by the governing authorities.

222 (5) The municipal judge of any municipality is hereby
223 authorized to suspend the sentence and to suspend the execution of



224 the sentence, or any part thereof, on such terms as may be imposed
225 by the municipal judge. However, the suspension of imposition or
226 execution of a sentence hereunder may not be revoked after a
227 period of two (2) years. The municipal judge shall have the power
228 to establish and operate a probation program, dispute resolution
229 program and other practices or procedures appropriate to the
230 judiciary and designed to aid in the administration of justice.
231 Any such program shall be established by the court with written
232 policies and procedures filed with the clerk of the court for
233 public record. Subsequent to original sentencing, the municipal
234 judge, in misdemeanor cases, is hereby authorized to suspend
235 sentence and to suspend the execution of a sentence, or any part
236 thereof, on such terms as may be imposed by the municipal judge,
237 if (a) the judge or his or her predecessor was authorized to order
238 such suspension when the sentence was originally imposed; and (b)
239 such conviction (i) has not been appealed; or (ii) has been
240 appealed and the appeal has been voluntarily dismissed.

241 (6) Upon prior notice to the municipal prosecuting attorney
242 and upon a showing in open court of rehabilitation, good conduct
243 for a period of two (2) years since the last conviction in any
244 court and that the best interest of society would be served, the
245 court may, in its discretion, order the record of conviction of a
246 person of any or all misdemeanors in that court expunged, and upon
247 so doing the said person thereafter legally stands as though he
248 had never been convicted of the said misdemeanor(s) and may



249 lawfully so respond to any query of prior convictions. This order
250 of expunction does not apply to the confidential records of law
251 enforcement agencies and has no effect on the driving record of a
252 person maintained under Title 63, Mississippi Code of 1972, or any
253 other provision of said Title 63.

254 (7) Notwithstanding the provisions of subsection (6) of this
255 section, a person who was convicted in municipal court of a
256 misdemeanor before reaching his twenty-third birthday, excluding
257 conviction for a traffic violation, and who is a first offender,
258 may utilize the provisions of Section 99-19-71, to expunge such
259 misdemeanor conviction.

260 (8) In the discretion of the court, a plea of nolo
261 contendere may be entered to any charge in municipal court. Upon
262 the entry of a plea of nolo contendere the court shall convict the
263 defendant of the offense charged and shall proceed to sentence the
264 defendant according to law. The judgment of the court shall
265 reflect that the conviction was on a plea of nolo contendere. An
266 appeal may be made from a conviction on a plea of nolo contendere
267 as in other cases.

268 (9) Upon execution of a sworn complaint charging a
269 misdemeanor, the municipal court may, in its discretion and in
270 lieu of an arrest warrant, issue a citation requiring the
271 appearance of the defendant to answer the charge made against him.
272 On default of appearance, an arrest warrant may be issued for the



273 defendant. The clerk of the court or deputy clerk may issue such
274 citations.

275 (10) The municipal court shall have the power to make rules
276 for the administration of the court's business, which rules, if
277 any, shall be in writing filed with the clerk of the court and
278 shall include the enactment of rules related to the court's
279 authority to issue domestic abuse protection orders pursuant to
280 Section 93-21-1 et seq.

281 (11) The municipal court shall have the power to impose
282 punishment of a fine of not more than One Thousand Dollars
283 (\$1,000.00) or six (6) months imprisonment, or both, for contempt
284 of court. The municipal court may have the power to impose
285 reasonable costs of court, not in excess of the following:

286	Dismissal of any affidavit, complaint or charge	
287	in municipal court.....	\$ 50.00
288	Suspension of a minor's driver's license in lieu of	
289	conviction.....	\$ 50.00
290	Service of scire facias or return "not found".....	\$ 20.00
291	Causing search warrant to issue or causing	
292	prosecution without reasonable cause or refusing to	
293	cooperate after initiating action.....	\$ 100.00
294	Certified copy of the court record.....	\$ 5.00
295	Service of arrest warrant for failure to answer	
296	citation or traffic summons.....	\$ 25.00



297 Jail cost per day - actual jail cost paid by the municipality but
 298 not to exceed..... \$ 35.00
 299 Service of court documents related to the filing
 300 of a petition or issuance of a protection from domestic
 301 abuse order under Title 93, Chapter 21, Mississippi
 302 Code of 1972\$ 25.00
 303 Any other item of court cost.....\$ 50.00

304 No filing fee or such cost shall be imposed for the bringing
 305 of an action in municipal court.

306 (12) A municipal court judge shall not dismiss a criminal
 307 case but may transfer the case to the justice court of the county
 308 if the municipal court judge is prohibited from presiding over the
 309 case by the Canons of Judicial Conduct and provided that venue and
 310 jurisdiction are proper in the justice court. Upon transfer of
 311 any such case, the municipal court judge shall give the municipal
 312 court clerk a written order to transmit the affidavit or complaint
 313 and all other records and evidence in the court's possession to
 314 the justice court by certified mail or to instruct the arresting
 315 officer to deliver such documents and records to the justice
 316 court. There shall be no court costs charged for the transfer of
 317 the case to the justice court.

318 (13) A municipal court judge shall expunge the record of any
 319 case in which an arrest was made, the person arrested was released
 320 and the case was dismissed or the charges were dropped or there
 321 was no disposition of such case.



322 (14) The municipal court may accept payment for any fines,
323 fees or costs imposed by the court through payment made by credit
324 cards and in doing so, the court in exchange of the acceptance of
325 this payment method and in recognition of the reduction of other
326 municipal costs connected with the acceptance of such funds by
327 this method, such municipality shall not charge any transaction or
328 processing fee that is charged to the municipality for this method
329 of payment to the paying party, provided the individual payment or
330 transaction does not exceed Five Thousand Dollars (\$5,000.00).

331 **SECTION 3.** Section 21-17-5, Mississippi Code of 1972, is
332 amended as follows:

333 21-17-5. (1) The governing authorities of every
334 municipality of this state shall have the care, management and
335 control of the municipal affairs and its property and finances.
336 In addition to those powers granted by specific provisions of
337 general law, the governing authorities of municipalities shall
338 have the power to adopt any orders, resolutions or ordinances with
339 respect to such municipal affairs, property and finances which are
340 not inconsistent with the Mississippi Constitution of 1890, the
341 Mississippi Code of 1972, or any other statute or law of the State
342 of Mississippi, and shall likewise have the power to alter, modify
343 and repeal such orders, resolutions or ordinances. Except as
344 otherwise provided in subsection (2) of this section, the powers
345 granted to governing authorities of municipalities in this section
346 are complete without the existence of or reference to any specific



347 authority granted in any other statute or law of the State of
348 Mississippi. Unless otherwise provided by law, before entering
349 upon the duties of their respective offices, the aldermen or
350 councilmen of every municipality of this state shall give bond,
351 with sufficient surety, to be payable, conditioned and approved as
352 provided by law, in a penalty equal to five percent (5%) of the
353 sum of all the municipal taxes shown by the assessment rolls and
354 the levies to have been collectible in the municipality for the
355 year immediately preceding the commencement of the term of office
356 of said alderman or councilman; however, such bond shall not
357 exceed One Hundred Thousand Dollars (\$100,000.00). For all
358 municipalities with a population more than two thousand (2,000)
359 according to the latest federal decennial census, the amount of
360 the bond shall not be less than Fifty Thousand Dollars
361 (\$50,000.00). Any taxpayer of the municipality may sue on such
362 bond for the use of the municipality, and such taxpayer shall be
363 liable for all costs in case his suit shall fail. No member of
364 the city council or board of aldermen shall be surety for any
365 other such member.

366 (2) Unless such actions are specifically authorized by
367 another statute or law of the State of Mississippi, this section
368 shall not authorize the governing authorities of municipalities to
369 (a) levy taxes of any kind or increase the levy of any authorized
370 tax, (b) issue bonds of any kind, (c) change the requirements,
371 practices or procedures for municipal elections or establish any



372 new elective office, (d) change the procedure for annexation of
373 additional territory into the municipal boundaries, (e) change the
374 structure or form of the municipal government, (f) permit the
375 sale, manufacture, distribution, possession or transportation of
376 alcoholic beverages, (g) grant any donation, or (h) without prior
377 legislative approval, regulate, directly or indirectly, the amount
378 of rent charged for leasing private residential property in which
379 the municipality does not have a property interest.

380 (3) Nothing in this or any other section shall be construed
381 so as to prevent any municipal governing authority from paying any
382 municipal employee not to exceed double his ordinary rate of pay
383 or awarding any municipal employee not to exceed double his
384 ordinary rate of compensatory time for work performed in his
385 capacity as a municipal employee on legal holidays. The governing
386 authority of any municipality shall enact leave policies to ensure
387 that a public safety employee is paid or granted compensatory time
388 for the same number of holidays for which any other municipal
389 employee is paid.

390 (4) The governing authority of any municipality, in its
391 discretion, may expend funds to provide for training and education
392 of newly elected or appointed municipal officials before the
393 beginning of the term of office or employment of such officials.
394 Any expenses incurred for such purposes may be allowed only upon
395 prior approval of the governing authority. Any payments or
396 reimbursements made under the provisions of this subsection may be



397 paid only after presentation to and approval by the governing
398 authority of the municipality.

399 (5) The governing authority of any municipality may lease
400 the naming rights to municipal property to a private commercial
401 entity.

402 (6) The governing authority of any municipality may accept
403 payment for any fines or any fees associated with any permits or
404 licenses or provision of services provided by the municipality
405 through payment made by credit cards and in doing so, the
406 municipality may in exchange of the acceptance of this payment
407 method and in recognition of the reduction of other municipal
408 costs connected with the acceptance of such funds by this method,
409 such municipality shall not charge any transaction or processing
410 fee that is charged to the municipality for this method of payment
411 to the paying party, provided the individual payment or
412 transaction does not exceed Five Thousand Dollars (\$5,000.00).

413 **SECTION 4.** This act shall take effect and be in force from
414 and after July 1, 2018.

