

By: Representatives Eubanks, Boyd, Brown
(20th), Criswell, Hopkins, Williamson

To: Constitution

HOUSE BILL NO. 1282

1 AN ACT TO AMEND SECTIONS 21-17-5, 21-19-15 AND 21-37-3,
2 MISSISSIPPI CODE OF 1972, TO CLARIFY THE AUTHORITY OF
3 MUNICIPALITIES BY RETROACTIVELY AND PROSPECTIVELY PROHIBITING
4 GOVERNING AUTHORITIES OF MUNICIPALITIES FROM RESTRICTING THE
5 EXERCISE OF FREE SPEECH AND OTHER FUNDAMENTAL RIGHTS WITHIN THE
6 IMMEDIATE VICINITY OF MEDICAL OR HEATH CARE FACILITIES; AND FOR
7 RELATED PURPOSES.

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

9 **SECTION 1.** Section 21-17-5, Mississippi Code of 1972, is
10 amended as follows:

11 21-17-5. (1) The governing authorities of every
12 municipality of this state shall have the care, management and
13 control of the municipal affairs and its property and finances.
14 In addition to those powers granted by specific provisions of
15 general law, the governing authorities of municipalities shall
16 have the power to adopt any orders, resolutions or ordinances with
17 respect to such municipal affairs, property and finances which are
18 not inconsistent with the Mississippi Constitution of 1890, the
19 Mississippi Code of 1972, or any other statute or law of the State
20 of Mississippi, and shall likewise have the power to alter, modify



21 and repeal such orders, resolutions or ordinances. Except as
22 otherwise provided in subsection (2) of this section, the powers
23 granted to governing authorities of municipalities in this section
24 are complete without the existence of or reference to any specific
25 authority granted in any other statute or law of the State of
26 Mississippi. Unless otherwise provided by law, before entering
27 upon the duties of their respective offices, the aldermen or
28 councilmen of every municipality of this state shall give bond,
29 with sufficient surety, to be payable, conditioned and approved as
30 provided by law, in a penalty equal to five percent (5%) of the
31 sum of all the municipal taxes shown by the assessment rolls and
32 the levies to have been collectible in the municipality for the
33 year immediately preceding the commencement of the term of office
34 of said alderman or councilman; however, such bond shall not
35 exceed One Hundred Thousand Dollars (\$100,000.00). For all
36 municipalities with a population more than two thousand (2,000)
37 according to the latest federal decennial census, the amount of
38 the bond shall not be less than Fifty Thousand Dollars
39 (\$50,000.00). Any taxpayer of the municipality may sue on such
40 bond for the use of the municipality, and such taxpayer shall be
41 liable for all costs in case his suit shall fail. No member of
42 the city council or board of aldermen shall be surety for any
43 other such member.

44 (2) Unless such actions are specifically authorized by
45 another statute or law of the State of Mississippi, this section



46 shall not authorize the governing authorities of municipalities to
47 (a) levy taxes of any kind or increase the levy of any authorized
48 tax, (b) issue bonds of any kind, (c) change the requirements,
49 practices or procedures for municipal elections or establish any
50 new elective office, (d) change the procedure for annexation of
51 additional territory into the municipal boundaries, (e) change the
52 structure or form of the municipal government, (f) permit the
53 sale, manufacture, distribution, possession or transportation of
54 alcoholic beverages, (g) grant any donation, * * * (h) without
55 prior legislative approval, regulate, directly or indirectly, the
56 amount of rent charged for leasing private residential property in
57 which the municipality does not have a property interest or (i)
58 without prior legislative approval, regulate, directly or
59 indirectly, the exercise of free speech or other fundamental
60 rights in the immediate vicinity of any medical facility,
61 hospital, clinic or other health care facility.

62 (3) Subsection (2) (i) of this section shall have
63 retroactive effect with respect to any orders, resolutions or
64 ordinances adopted by any municipal governing authority prior to
65 July 1, 2021, which purport to regulate, directly or indirectly,
66 the exercise of free speech or other fundamental rights in the
67 immediate vicinity of any medical facility, hospital, clinic or
68 other health care facility, and such orders, resolutions or
69 ordinances are beyond the scope of power granted by this section
70 and are without force unless approved by the Legislature or



71 specifically authorized by another statute or law of the State of
72 Mississippi.

73 (* * *4) Nothing in this or any other section shall be
74 construed so as to prevent any municipal governing authority from
75 paying any municipal employee not to exceed double his ordinary
76 rate of pay or awarding any municipal employee not to exceed
77 double his ordinary rate of compensatory time for work performed
78 in his capacity as a municipal employee on legal holidays. The
79 governing authority of any municipality shall enact leave policies
80 to ensure that a public safety employee is paid or granted
81 compensatory time for the same number of holidays for which any
82 other municipal employee is paid.

83 (* * *5) The governing authority of any municipality, in
84 its discretion, may expend funds to provide for training and
85 education of newly elected or appointed municipal officials before
86 the beginning of the term of office or employment of such
87 officials. Any expenses incurred for such purposes may be allowed
88 only upon prior approval of the governing authority. Any payments
89 or reimbursements made under the provisions of this subsection may
90 be paid only after presentation to and approval by the governing
91 authority of the municipality.

92 (* * *6) The governing authority of any municipality may
93 lease the naming rights to municipal property to a private
94 commercial entity.



95 **SECTION 2.** Section 21-19-15, Mississippi Code of 1972, is
96 amended as follows:

97 21-19-15. (1) The governing authorities of municipalities
98 shall have power to make all needful police regulations necessary
99 for the preservation of good order and peace of the municipality
100 and to prevent injury to, destruction of, or interference with
101 public or private property.

102 (2) The governing authority of a municipality shall have the
103 power to regulate or prohibit any mill, laundry or manufacturing
104 plant from operating whereby the soot, cinders or smoke therefrom,
105 or the unnecessary noises thereof, may do damage to or interfere
106 with the use or occupation of public or private property.

107 (3) The governing authority of a municipality shall have the
108 power to prohibit or regulate the sale or use of firecrackers,
109 roman candles, torpedoes, sky rockets, and any and all explosives
110 commonly known and referred to as fireworks; the term "fireworks"
111 shall not include toy pistols, toy canes, toy guns, other devices
112 in which paper caps manufactured in accordance with United States
113 Interstate Commerce Commission regulations for packing and
114 shipping of toy paper caps are used, or toy pistol paper caps
115 manufactured as provided herein, the sale and use of which shall
116 be permitted at all times.

117 (4) The governing authority of a municipality may enact an
118 ordinance specifying the manner and means by which a motor vehicle
119 may be immobilized due to failure of the record title owner of the



120 motor vehicle to pay traffic or parking fines totaling over Two
121 Hundred Dollars (\$200.00).

122 (5) The governing authority of a municipality may enforce an
123 ordinance regulating or restricting parking on any public street
124 or roadway. However, signage that adequately describes the
125 parking regulation or restriction must be posted.

126 (6) Nothing in this section shall be construed to authorize
127 the governing authorities of municipalities to, without prior
128 legislative approval, regulate, directly or indirectly, the
129 exercise of free speech or other fundamental rights in the
130 immediate vicinity of any medical facility, hospital, clinic or
131 other health care facility. This subsection (6) shall have
132 retroactive effect and applies to all orders, resolutions or
133 ordinances of all municipal governing authorities, whether adopted
134 before or after July 1, 2021.

135 **SECTION 3.** Section 21-37-3, Mississippi Code of 1972, is
136 amended as follows:

137 21-37-3. (1) Except as otherwise provided in subsection (2)
138 of this section, the governing authorities of municipalities shall
139 have the power to exercise full jurisdiction in the matter of
140 streets, sidewalks, sewers, and parks; to open and lay out and
141 construct the same; and to repair, maintain, pave, sprinkle,
142 adorn, and light the same.



143 (2) Section 63-3-208 * * * shall govern the use of electric
144 personal assistive mobility devices (as defined in Section
145 63-3-103) on streets and sidewalks.

146 (3) Nothing in this section shall be construed to authorize
147 the governing authorities of municipalities to, without prior
148 legislative approval, regulate, directly or indirectly, the
149 exercise of free speech or other fundamental rights in the
150 immediate vicinity of any medical facility, hospital, clinic or
151 other health care facility. This subsection (3) of this section
152 shall have retroactive effect and applies to all orders,
153 resolutions or ordinances of all municipal governing authorities,
154 whether adopted before or after July 1, 2021.

155 **SECTION 4.** This act shall take effect and be in force from
156 and after July 1, 2021.

