

By: Representative Robertson

To: Municipalities; County
Affairs

HOUSE BILL NO. 860
(As Sent to Governor)

1 AN ACT TO AUTHORIZE THE BOARD OF SUPERVISORS OF ANY COUNTY
2 AND THE GOVERNING AUTHORITIES OF ANY MUNICIPALITY TO SELL, LEASE
3 OR CONVEY, WITH OR WITHOUT CONSIDERATION, SURPLUS REAL OR PERSONAL
4 PROPERTY BELONGING TO THE COUNTY OR MUNICIPALITY TO ANY NONPROFIT
5 PRIMARY HEALTH CARE CLINIC FOR THE PURPOSE OF PROVIDING PRIMARY
6 HEALTH CARE SERVICES TO RESIDENTS WHO ARE EMPLOYED OR TEMPORARILY
7 OUT OF WORK AND WHO DO NOT HAVE HEALTH INSURANCE; TO AMEND
8 SECTIONS 19-7-3, 19-7-5 AND 21-17-1, MISSISSIPPI CODE OF 1972, IN
9 CONFORMITY WITH THE PROVISIONS OF THIS ACT; AND FOR RELATED
10 PURPOSES.

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

12 **SECTION 1.** (1) The governing body of any county or
13 municipality, in its discretion, may sell, lease or convey, with
14 or without consideration and upon such terms and conditions as the
15 parties may agree, any land, buildings, fixtures, equipment or
16 other real or personal property belonging to the county or
17 municipality that is determined by the governing body as no longer
18 needed by the county or municipality for governmental purposes, to
19 any nonprofit primary health care clinic, which is exempt from
20 federal income taxation under Section 501(c)(3) of the Internal
21 Revenue Code located or to be located in the county for the
22 purpose of assisting any such clinic to provide primary health
23 care services to residents who are employed or temporarily out of
24 work and who do not have health insurance. If such property is
25 sold, leased or conveyed without consideration, the governing body
26 of the county or municipality shall state in its minutes the
27 purpose for which the property shall be used, and such property
28 shall revert to the county or municipality whenever it ceases to
29 be used for that stated purpose.



30 (2) As used in this section, the term "governing body" means
31 the board of supervisors of any county and the governing
32 authorities of any municipality.

33 (3) This section shall stand repealed from and after July 1,
34 2005.

35 **SECTION 2.** Section 19-7-3, Mississippi Code of 1972, is
36 amended as follows:

37 19-7-3. In case any of the real estate belonging to the
38 county shall cease to be used for county purposes, the board of
39 supervisors may sell, convey or lease the same on such terms as
40 the board may elect and may, in addition, exchange the same for
41 real estate belonging to any other political subdivision located
42 within the county. In case of a sale on a credit, the county
43 shall have a lien on the same for the purchase money, as against
44 all persons, until paid and may enforce the lien as in such cases
45 provided by law. The deed of conveyance in such cases shall be
46 executed in the name of the county by the president of the board
47 of supervisors, pursuant to an order of the board entered on its
48 minutes.

49 Before any lease, deed or conveyance is executed, the board
50 shall publish at least once each week for three (3) consecutive
51 weeks, in a public newspaper of the county in which the land is
52 located, or if no newspaper be published in said county then in a
53 newspaper having general circulation therein, the intention to
54 lease or sell, as the case may be, the county-owned land and to
55 accept sealed competitive bids for the leasing or sale. The board
56 shall thereafter accept bids for the lease or sale and shall award
57 the lease to the highest bidder in the manner provided by law.
58 However, whenever the board of supervisors shall find and
59 determine, by resolution duly and lawfully adopted and spread upon
60 its minutes (a) that any county-owned property is no longer needed
61 for county or related purposes and is not to be used in the
62 operation of the county, (b) that the sale of the property in the



63 manner otherwise provided by law is not necessary or desirable for
64 the financial welfare of the county, and (c) that the use of the
65 county property for the purpose for which it is to be sold,
66 conveyed or leased will promote and foster the development and
67 improvement of the community in which it is located and the civic,
68 social, educational, cultural, moral, economic, or industrial
69 welfare thereof, the board of supervisors of such county shall be
70 authorized and empowered, in its discretion, to sell, convey,
71 lease, or otherwise dispose of same for any of the purposes set
72 forth herein.

73 Nothing contained in this section shall be construed to
74 prohibit, restrict or to prescribe conditions with regard to the
75 authority granted under Section 1 of House Bill No. 860, 2003
76 Regular Session.

77 **SECTION 3.** Section 19-7-5, Mississippi Code of 1972, is
78 amended as follows:

79 19-7-5. The board of supervisors shall have the power to
80 sell and dispose of at public sale for cash, any personal property
81 belonging to the county or any subdivision thereof when the same
82 shall have ceased to be used for county purposes or when, in the
83 judgment of said board, a sale thereof would promote the best
84 interest of the county. Said sale shall be advertised by posting
85 notices at three (3) public places in the county, at least ten
86 (10) days prior to such sale, one (1) of which said notices shall
87 be posted at the courthouse. The proceeds of said sale shall be
88 placed in the county depository to the credit of the proper fund.
89 Where said property shall not exceed One Hundred Dollars (\$100.00)
90 in value the same may be sold and disposed of by the boards of
91 supervisors at a private sale by the unanimous vote of the members
92 of said board of supervisors and the proceeds thereof disposed of
93 as above provided. However, if the board of supervisors find
94 consistent with fact that the fair-market value of the personal
95 property is zero and this finding is duly entered on the minutes



96 of the board, then the personal property in question may be
97 disposed of as deemed to be appropriate and in the best interest
98 of the county, provided that no county official or employee
99 derives any personal economic benefit from such disposal. If any
100 of such property may be of use or benefit to the United States
101 government in its national defense effort, the board of
102 supervisors is hereby authorized in its discretion to turn over
103 such property to the United States government by way of a donation
104 thereto.

105 Nothing contained in this section shall be construed to
106 prohibit, restrict or to prescribe conditions with regard to the
107 authority granted under Section 1 of House Bill No. 860, 2003
108 Regular Session.

109 **SECTION 4.** Section 21-17-1, Mississippi Code of 1972, is
110 amended as follows:

111 21-17-1. (1) Every municipality of this state shall be a
112 municipal corporation and shall have power to sue and be sued; to
113 purchase and hold real estate, either within or without the
114 corporate limits, for all proper municipal purposes, including
115 parks, cemeteries, hospitals, schoolhouses, houses of correction,
116 waterworks, electric lights, sewers and other proper municipal
117 purposes; to purchase and hold personal property for all proper
118 municipal purposes; to acquire equipment and machinery by
119 lease-purchase agreement and to pay interest thereon, if
120 contracted, when needed for proper municipal purposes; to sell and
121 convey any real and personal property owned by it, and make such
122 order respecting the same as may be deemed conducive to the best
123 interest of the municipality, and exercise jurisdiction over the
124 same.

125 (2) In case any of the real property belonging to a
126 municipality shall cease to be used for municipal purposes, the
127 governing authorities of the municipality may sell, convey or
128 lease the same on such terms as the municipal authorities may



129 elect. In case of a sale on a credit, the municipality shall
130 charge appropriate interest as contracted and shall have a lien on
131 the same for the purchase money, as against all persons, until
132 paid and may enforce the lien as in such cases provided by law.
133 The deed of conveyance in such cases shall be executed in the name
134 of the municipality by the governing authorities of the
135 municipality pursuant to their order entered on the minutes of
136 their meetings. In any sale or conveyance of real property, the
137 municipality shall retain all mineral rights that it owns,
138 together with the right of ingress and egress to remove same.
139 Before any such lease, deed or conveyance is executed, the
140 governing authorities of the municipality shall publish at least
141 once each week for three (3) consecutive weeks, in a public
142 newspaper of the municipality in which the real property is
143 located, or if no newspaper be published as such, then in a
144 newspaper having general circulation therein, the intention to
145 lease or sell, as the case may be, the municipally owned real
146 property and to accept sealed competitive bids for the leasing or
147 sale. The governing authorities of the municipality shall
148 thereafter accept bids for the lease or sale and shall award the
149 lease or sale to the highest bidder in the manner provided by law.
150 However, whenever the governing authorities of the municipality
151 shall find and determine, by resolution duly and lawfully adopted
152 and spread upon its minutes (a) that any municipally owned real
153 property is no longer needed for municipal or related purposes and
154 is not to be used in the operation of the municipality, (b) that
155 the sale of such property in the manner otherwise provided by law
156 is not necessary or desirable for the financial welfare of the
157 municipality, and (c) that the use of such property for the
158 purpose for which it is to be sold, conveyed or leased will
159 promote and foster the development and improvement of the
160 community in which it is located and the civic, social,
161 educational, cultural, moral, economic or industrial welfare



162 thereof, the governing authorities of the municipality shall be
163 authorized and empowered, in their discretion, to sell, convey or
164 lease same for any of the purposes set forth herein without having
165 to advertise for and accept competitive bids. In any case in
166 which a municipality proposes to sell, convey or lease real
167 property under the provisions of this section without advertising
168 for and accepting competitive bids, consideration for the
169 purchase, conveyance or lease of the property shall be not less
170 than the average of the fair-market price for such property as
171 determined by three (3) professional property appraisers selected
172 by the municipality and approved by the purchaser or lessee.
173 Appraisal fees shall be shared equally by the municipality and the
174 purchaser or lessee.

175 (3) Whenever the governing authorities of the municipality
176 shall find and determine by resolution duly and lawfully adopted
177 and spread upon the minutes that municipally owned real property
178 is not used for municipal purposes and therefore surplus as set
179 forth hereinabove:

180 (a) The governing authority may donate such lands to a
181 bona fide not-for-profit civic or eleemosynary corporation
182 organized and existing under the laws of the State of Mississippi
183 and granted tax exempt status by the Internal Revenue Service and
184 may donate such lands and necessary funds related thereto to the
185 public school district in which the land is situated for the
186 purposes set forth herein. Any deed or conveyance executed
187 pursuant hereto shall contain a clause of reverter providing that
188 the bona fide not-for-profit corporation or public school district
189 may hold title to such lands only so long as they are continued to
190 be used for the civic, social, educational, cultural, moral,
191 economic or industrial welfare of the community, and that title
192 shall revert to the municipality in the event of the cessation of
193 such use for a period of two (2) years. In any such deed or
194 conveyance, the municipality shall retain all mineral rights that



195 it owns, together with the right of ingress and egress to remove
196 same;

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

204 (c) In the event the governing authority does not wish
205 to donate title to such lands to the bona fide not-for-profit
206 civic or eleemosynary corporation, but wishes to retain title to
207 the lands, the governing authority may lease the lands to a bona
208 fide not-for-profit corporation described in paragraph (a) or (b)
209 for less than fair-market value;

210 (d) Nothing contained in this subsection (3) shall be
211 construed to prohibit, restrict or to prescribe conditions with
212 regard to the authority granted under Section 1 of House Bill No.
213 860, 2003 Regular Session.

214 (4) Every municipality shall also be authorized and
215 empowered to loan to private persons or entities, whether
216 organized for profit or nonprofit, funds received from the United
217 States Department of Housing and Urban Development (HUD) under an
218 urban development action grant or a community development block
219 grant under the Housing and Community Development Act of 1974
220 (Public Law 93-383), as amended, and to charge interest thereon if
221 contracted, provided that no such loan shall include any funds
222 from any revenues other than the funds from the United States
223 Department of Housing and Urban Development; to make all contracts
224 and do all other acts in relation to the property and affairs of
225 the municipality necessary to the exercise of its governmental,
226 corporate and administrative powers; and to exercise such other or
227 further powers as are otherwise conferred by law.



228 (5) The governing authorities of any municipality may
229 contract with a private attorney or private collection agent or
230 agency to collect any type of delinquent payment owed to the
231 municipality, including, but not limited to, past due fees and
232 fines. Any such contract debt may provide for payment contingent
233 upon successful collection efforts or payment based upon a
234 percentage of the delinquent amount collected; however, the entire
235 amount of all delinquent payments collected shall be remitted to
236 the municipality and shall not be reduced by any collection costs
237 or fees. Any private attorney or private collection agent or
238 agency contracting with the municipality under the provisions of
239 this subsection shall give bond or other surety payable to the
240 municipality in such amount as the governing authorities of the
241 municipality deem sufficient. Any private attorney with whom the
242 municipality contracts under the provisions of this subsection
243 must be a member in good standing of The Mississippi Bar. Any
244 private collection agent or agency with whom the municipality
245 contracts under the provisions of this subsection must meet all
246 licensing requirements for doing business in the State of
247 Mississippi. Neither the municipality nor any officer or employee
248 of the municipality shall be liable, civilly or criminally, for
249 any wrongful or unlawful act or omission of any person or business
250 with whom the municipality has contracted under the provisions of
251 this subsection. The Mississippi Department of Audit shall
252 establish rules and regulations for use by municipalities in
253 contracting with persons or businesses under the provisions of
254 this subsection. If a municipality uses its own employees to
255 collect any type of delinquent payment owed to the municipality,
256 then from and after July 1, 2000, the municipality may charge an
257 additional fee for collection of the delinquent payment provided
258 the payment has been delinquent for ninety (90) days. The
259 collection fee may not exceed fifteen percent (15%) of the
260 delinquent payment if the collection is made within this state and



261 may not exceed twenty-five percent (25%) of the delinquent payment
262 if the collection is made outside this state. In conducting
263 collection of delinquent payments, the municipality may utilize
264 credit cards or electronic fund transfers. The municipality may
265 pay any service fees for the use of such methods of collection
266 from the collection fee, but not from the delinquent payment.
267 There shall be due to the municipality from any person whose
268 delinquent payment is collected under a contract executed as
269 provided in this subsection an amount, in addition to the
270 delinquent payment, of not to exceed twenty-five percent (25%) of
271 the delinquent payment for collections made within this state, and
272 not to exceed fifty percent (50%) of the delinquent payment for
273 collections made outside of this state.

274 (6) In addition to such authority as is otherwise granted
275 under this section, the governing authorities of any municipality
276 may expend funds necessary to maintain and repair, and to purchase
277 liability insurance, tags and decals for, any personal property
278 acquired under the Federal Excess Personal Property Program that
279 is used by the local volunteer fire department.

280 (7) The governing authorities of any municipality may, in
281 its discretion, donate personal property or funds to the public
282 school district or districts located in the municipality for the
283 promotion of educational programs of the district or districts
284 within the municipality.

285 (8) In addition to the authority to expend matching funds
286 under Section 21-19-65, the governing authorities of any
287 municipality, in their discretion, may expend municipal funds to
288 match any state, federal or private funding for any program
289 administered by the State of Mississippi, the United States
290 government or any nonprofit organization that is exempt under 26
291 USCS Section 501(c)(3) from paying federal income tax.

292 (9) The powers conferred by this section shall be in
293 addition and supplemental to the powers conferred by any other



294 law, and nothing contained in this section shall be construed to
295 prohibit, or to prescribe conditions concerning, any practice or
296 practices authorized under any other law.

297 **SECTION 5.** This act shall take effect and be in force from
298 and after its passage.

