

REPORT OF CONFERENCE COMMITTEE

MADAM PRESIDENT AND MR. SPEAKER:

We, the undersigned conferees, have had under consideration the amendments to the following entitled BILL:

S. B. No. 2640: Purchase of supply of natural gas; authorize certain municipalities to contract for purchase and exempt from bid requirements.

We, therefore, respectfully submit the following report and recommendation:

1. That the House recede from its Amendment No. 1.
2. That the Senate and House adopt the following amendment:

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

14 **SECTION 1.** The governing authority of any municipality that
15 owns and operates a gas distribution system, as defined in Section
16 21-27-11 (b), and the governing authority of any public natural
17 gas district are authorized to contract for the purchase of the
18 supply of natural gas for a term of up to ten (10) years with any
19 public nonprofit corporation which is organized under the laws of
20 this state or any other state.

21 **SECTION 2.** Section 21-17-1, Mississippi Code of 1972, as
22 amended by House Bill No. 606, 2004 Regular Session, is amended as
23 follows:

24 **[Until July 1, 2004, this section shall read as follows:]**

25 21-17-1. (1) Every municipality of this state shall be a
26 municipal corporation and shall have power to sue and be sued; to
27 purchase and hold real estate, either within or without the
28 corporate limits, for all proper municipal purposes, including
29 parks, cemeteries, hospitals, schoolhouses, houses of correction,
30 waterworks, electric lights, sewers and other proper municipal
31 purposes; to purchase and hold personal property for all proper
32 municipal purposes; to acquire equipment and machinery by
33 lease-purchase agreement and to pay interest thereon, if
34 contracted, when needed for proper municipal purposes; to sell and

35 convey any real and personal property owned by it, and make such
36 order respecting the same as may be deemed conducive to the best
37 interest of the municipality, and exercise jurisdiction over the
38 same.

39 (2) In case any of the real property belonging to a
40 municipality shall cease to be used for municipal purposes, the
41 governing authorities of the municipality may sell, convey or
42 lease the same on such terms as the municipal authorities may
43 elect. In case of a sale on a credit, the municipality shall
44 charge appropriate interest as contracted and shall have a lien on
45 the same for the purchase money, as against all persons, until
46 paid and may enforce the lien as in such cases provided by law.
47 The deed of conveyance in such cases shall be executed in the name
48 of the municipality by the governing authorities of the
49 municipality pursuant to their order entered on the minutes of
50 their meetings. In any sale or conveyance of real property, the
51 municipality shall retain all mineral rights that it owns,
52 together with the right of ingress and egress to remove same.
53 Before any such lease, deed or conveyance is executed, the
54 governing authorities of the municipality shall publish at least
55 once each week for three (3) consecutive weeks, in a public
56 newspaper of the municipality in which the real property is
57 located, or if no newspaper be published as such, then in a
58 newspaper having general circulation therein, the intention to
59 lease or sell, as the case may be, the municipally owned real
60 property and to accept sealed competitive bids for the leasing or
61 sale. The governing authorities of the municipality shall
62 thereafter accept bids for the lease or sale and shall award the
63 lease or sale to the highest bidder in the manner provided by law.
64 However, whenever the governing authorities of the municipality
65 shall find and determine, by resolution duly and lawfully adopted
66 and spread upon its minutes (a) that any municipally owned real

67 property is no longer needed for municipal or related purposes and
68 is not to be used in the operation of the municipality, (b) that
69 the sale of such property in the manner otherwise provided by law
70 is not necessary or desirable for the financial welfare of the
71 municipality, and (c) that the use of such property for the
72 purpose for which it is to be sold, conveyed or leased will
73 promote and foster the development and improvement of the
74 community in which it is located and the civic, social,
75 educational, cultural, moral, economic or industrial welfare
76 thereof, the governing authorities of the municipality shall be
77 authorized and empowered, in their discretion, to sell, convey or
78 lease same for any of the purposes set forth herein without having
79 to advertise for and accept competitive bids. In any case in
80 which a municipality proposes to sell, convey or lease real
81 property under the provisions of this section without advertising
82 for and accepting competitive bids, consideration for the
83 purchase, conveyance or lease of the property shall be not less
84 than the average of the fair market price for such property as
85 determined by three (3) professional property appraisers selected
86 by the municipality and approved by the purchaser or lessee.
87 Appraisal fees shall be shared equally by the municipality and the
88 purchaser or lessee.

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

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

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

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

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

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

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

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

141 (5) The governing authorities of any municipality may
142 contract with a private attorney or private collection agent or
143 agency to collect any type of delinquent payment owed to the
144 municipality, including, but not limited to, past due fees and
145 fines. Any such contract debt may provide for payment contingent
146 upon successful collection efforts or payment based upon a
147 percentage of the delinquent amount collected; however, the entire
148 amount of all delinquent payments collected shall be remitted to
149 the municipality and shall not be reduced by any collection costs
150 or fees. Any private attorney or private collection agent or
151 agency contracting with the municipality under the provisions of
152 this subsection shall give bond or other surety payable to the
153 municipality in such amount as the governing authorities of the
154 municipality deem sufficient. Any private attorney with whom the
155 municipality contracts under the provisions of this subsection
156 must be a member in good standing of The Mississippi Bar. Any
157 private collection agent or agency with whom the municipality
158 contracts under the provisions of this subsection must meet all
159 licensing requirements for doing business in the State of
160 Mississippi. Neither the municipality nor any officer or employee
161 of the municipality shall be liable, civilly or criminally, for
162 any wrongful or unlawful act or omission of any person or business

163 with whom the municipality has contracted under the provisions of
164 this subsection. The Mississippi Department of Audit shall
165 establish rules and regulations for use by municipalities in
166 contracting with persons or businesses under the provisions of
167 this subsection. If a municipality uses its own employees to
168 collect any type of delinquent payment owed to the municipality,
169 then from and after July 1, 2000, the municipality may charge an
170 additional fee for collection of the delinquent payment provided
171 the payment has been delinquent for ninety (90) days. The
172 collection fee may not exceed fifteen percent (15%) of the
173 delinquent payment if the collection is made within this state and
174 may not exceed twenty-five percent (25%) of the delinquent payment
175 if the collection is made outside this state. In conducting
176 collection of delinquent payments, the municipality may utilize
177 credit cards or electronic fund transfers. The municipality may
178 pay any service fees for the use of such methods of collection
179 from the collection fee, but not from the delinquent payment.
180 There shall be due to the municipality from any person whose
181 delinquent payment is collected under a contract executed as
182 provided in this subsection an amount, in addition to the
183 delinquent payment, of not to exceed twenty-five percent (25%) of
184 the delinquent payment for collections made within this state, and
185 not to exceed fifty percent (50%) of the delinquent payment for
186 collections made outside of this state.

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

193 (7) The governing authorities of any municipality may, in
194 its discretion, donate personal property or funds to the public

195 school district or districts located in the municipality for the
196 promotion of educational programs of the district or districts
197 within the municipality.

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

205 (9) The governing authority of any municipality that owns
206 and operates a gas distribution system, as defined in Section
207 21-27-11(b), and the governing authority of any public natural gas
208 district are authorized to contract for the purchase of the supply
209 of natural gas for a term of up to ten (10) years with any public
210 nonprofit corporation which is organized under the laws of this
211 state or any other state.

212 (10) The powers conferred by this section shall be in
213 addition and supplemental to the powers conferred by any other
214 law, and nothing contained in this section shall be construed to
215 prohibit, or to prescribe conditions concerning, any practice or
216 practices authorized under any other law.

217 **[From and after July 1, 2004, this section shall read as**
218 **follows.]**

219 21-17-1. (1) Every municipality of this state shall be a
220 municipal corporation and shall have power to sue and be sued; to
221 purchase and hold real estate, either within or without the
222 corporate limits, for all proper municipal purposes, including
223 parks, cemeteries, hospitals, schoolhouses, houses of correction,
224 waterworks, electric lights, sewers and other proper municipal
225 purposes; to purchase and hold personal property for all proper
226 municipal purposes; to acquire equipment and machinery by

227 lease-purchase agreement and to pay interest thereon, if
228 contracted, when needed for proper municipal purposes; to sell and
229 convey any real and personal property owned by it, and make such
230 order respecting the same as may be deemed conducive to the best
231 interest of the municipality, and exercise jurisdiction over the
232 same.

233 (2) (a) In case any of the real property belonging to a
234 municipality shall cease to be used for municipal purposes, the
235 governing authority of the municipality may sell, convey or lease
236 the same on such terms as the municipal authority may elect. In
237 case of a sale on a credit, the municipality shall charge
238 appropriate interest as contracted and shall have a lien on the
239 same for the purchase money, as against all persons, until paid
240 and may enforce the lien as in such cases provided by law. The
241 deed of conveyance in such cases shall be executed in the name of
242 the municipality by the governing authority of the municipality
243 pursuant to an order entered on the minutes * * *. In any sale or
244 conveyance of real property, the municipality shall retain all
245 mineral rights that it owns, together with the right of ingress
246 and egress to remove same. Except as otherwise provided in this
247 section, before any such lease, deed or conveyance is executed,
248 the governing authority of the municipality shall publish at least
249 once each week for three (3) consecutive weeks, in a public
250 newspaper of the municipality in which the real property is
251 located, or if no newspaper be published as such, then in a
252 newspaper having general circulation therein, the intention to
253 lease or sell, as the case may be, the municipally owned real
254 property and to accept sealed competitive bids for the leasing or
255 sale. The governing authority of the municipality shall
256 thereafter accept bids for the lease or sale and shall award the
257 lease or sale to the highest bidder in the manner provided by law.
258 However, whenever the governing authority of the municipality

259 shall find and determine, by resolution duly and lawfully adopted
260 and spread upon its minutes (i) that any municipally owned real
261 property is no longer needed for municipal or related purposes and
262 is not to be used in the operation of the municipality, (ii) that
263 the sale of such property in the manner otherwise provided by law
264 is not necessary or desirable for the financial welfare of the
265 municipality, and (iii) that the use of such property for the
266 purpose for which it is to be sold, conveyed or leased will
267 promote and foster the development and improvement of the
268 community in which it is located and the civic, social,
269 educational, cultural, moral, economic or industrial welfare
270 thereof, the governing authority of the municipality shall be
271 authorized and empowered, in its discretion, to sell, convey or
272 lease same for any of the purposes set forth herein without having
273 to advertise for and accept competitive bids.

274 (b) In any case in which a municipality proposes to
275 sell, convey or lease real property under the provisions of this
276 subsection (2) without advertising for and accepting competitive
277 bids, the governing authority may sell, convey or lease the
278 property as follows:

279 (i) Consideration for the purchase, conveyance or
280 lease of the property shall be not less than the average of the
281 fair market price for such property as determined by three (3)
282 professional property appraisers selected by the municipality and
283 approved by the purchaser or lessee. Appraisal fees shall be
284 shared equally by the municipality and the purchaser or lessee; or

285 (ii) The governing authority of a municipality may
286 contract for the professional services of a Mississippi licensed
287 real estate broker to assist the municipality in the marketing and
288 sale or lease of the property, and may provide the broker
289 reasonable compensation for services rendered to be paid from the
290 sale or lease proceeds. The reasonable compensation shall not

291 exceed the usual and customary compensation for similar services
292 within the municipality.

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

298 (a) The governing authority may donate such lands to a
299 bona fide not-for-profit civic or eleemosynary corporation
300 organized and existing under the laws of the State of Mississippi
301 and granted tax exempt status by the Internal Revenue Service and
302 may donate such lands and necessary funds related thereto to the
303 public school district in which the land is situated for the
304 purposes set forth herein. Any deed or conveyance executed
305 pursuant hereto shall contain a clause of reverter providing that
306 the bona fide not-for-profit corporation or public school district
307 may hold title to such lands only so long as they are continued to
308 be used for the civic, social, educational, cultural, moral,
309 economic or industrial welfare of the community, and that title
310 shall revert to the municipality in the event of the cessation of
311 such use for a period of two (2) years. In any such deed or
312 conveyance, the municipality shall retain all mineral rights that
313 it owns, together with the right of ingress and egress to remove
314 same;

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

322 (c) In the event the governing authority does not wish
323 to donate title to such lands to the bona fide not-for-profit
324 civic or eleemosynary corporation, but wishes to retain title to
325 the lands, the governing authority may lease the lands to a bona
326 fide not-for-profit corporation described in paragraph (a) or (b)
327 for less than fair market value;

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

331 (4) Every municipality shall also be authorized and
332 empowered to loan to private persons or entities, whether
333 organized for profit or nonprofit, funds received from the United
334 States Department of Housing and Urban Development (HUD) under an
335 urban development action grant or a community development block
336 grant under the Housing and Community Development Act of 1974
337 (Public Law 93-383), as amended, and to charge interest thereon if
338 contracted, provided that no such loan shall include any funds
339 from any revenues other than the funds from the United States
340 Department of Housing and Urban Development; to make all contracts
341 and do all other acts in relation to the property and affairs of
342 the municipality necessary to the exercise of its governmental,
343 corporate and administrative powers; and to exercise such other or
344 further powers as are otherwise conferred by law.

345 (5) (a) The governing authority of any municipality may
346 establish an employer-assisted housing program to provide funds to
347 eligible employees to be used toward the purchase of a home. This
348 assistance may be applied toward the down payment, closing costs
349 or any other fees or costs associated with the purchase of a home.
350 The housing assistance may be in the form of a grant, forgivable
351 loan or repayable loan. The governing authority of a municipality
352 may contract with one or more public or private entities to
353 provide assistance in implementing and administering the program

354 and shall adopt rules and regulations regarding the eligibility of
355 a municipality for the program and for the implementation and
356 administration of the program. However, no general funds of a
357 municipality may be used for a grant or loan under the program.

358 (b) Participation in the program established under this
359 subsection (5) shall be available to any eligible municipal
360 employee as determined by the governing authority of the
361 municipality. Any person who receives financial assistance under
362 the program must purchase a house and reside within certain
363 geographic boundaries as determined by the governing authority of
364 the municipality.

365 (c) If the assistance authorized under this subsection
366 (5) is structured as a forgivable loan, the participating employee
367 must remain as an employee of the municipality for an agreed upon
368 period of time, as determined by the rules and regulations adopted
369 by the governing authority of the municipality, in order to have
370 the loan forgiven. The forgiveness structure, amount of
371 assistance and repayment terms shall be determined by the
372 governing authority of the municipality.

373 (6) The governing authority of any municipality may contract
374 with a private attorney or private collection agent or agency to
375 collect any type of delinquent payment owed to the municipality,
376 including, but not limited to, past due fees and fines. Any such
377 contract debt may provide for payment contingent upon successful
378 collection efforts or payment based upon a percentage of the
379 delinquent amount collected; however, the entire amount of all
380 delinquent payments collected shall be remitted to the
381 municipality and shall not be reduced by any collection costs or
382 fees. Any private attorney or private collection agent or agency
383 contracting with the municipality under the provisions of this
384 subsection shall give bond or other surety payable to the
385 municipality in such amount as the governing authority of the

386 municipality deems sufficient. Any private attorney with whom the
387 municipality contracts under the provisions of this subsection
388 must be a member in good standing of The Mississippi Bar. Any
389 private collection agent or agency with whom the municipality
390 contracts under the provisions of this subsection must meet all
391 licensing requirements for doing business in the State of
392 Mississippi. Neither the municipality nor any officer or employee
393 of the municipality shall be liable, civilly or criminally, for
394 any wrongful or unlawful act or omission of any person or business
395 with whom the municipality has contracted under the provisions of
396 this subsection. The Mississippi Department of Audit shall
397 establish rules and regulations for use by municipalities in
398 contracting with persons or businesses under the provisions of
399 this subsection. If a municipality uses its own employees to
400 collect any type of delinquent payment owed to the municipality,
401 then from and after July 1, 2000, the municipality may charge an
402 additional fee for collection of the delinquent payment provided
403 the payment has been delinquent for ninety (90) days. The
404 collection fee may not exceed fifteen percent (15%) of the
405 delinquent payment if the collection is made within this state and
406 may not exceed twenty-five percent (25%) of the delinquent payment
407 if the collection is made outside this state. In conducting
408 collection of delinquent payments, the municipality may utilize
409 credit cards or electronic fund transfers. The municipality may
410 pay any service fees for the use of such methods of collection
411 from the collection fee, but not from the delinquent payment.
412 There shall be due to the municipality from any person whose
413 delinquent payment is collected under a contract executed as
414 provided in this subsection an amount, in addition to the
415 delinquent payment, of not to exceed twenty-five percent (25%) of
416 the delinquent payment for collections made within this state, and

417 not to exceed fifty percent (50%) of the delinquent payment for
418 collections made outside of this state.

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

425 (8) The governing authority of any municipality may, in its
426 discretion, donate personal property or funds to the public school
427 district or districts located in the municipality for the
428 promotion of educational programs of the district or districts
429 within the municipality.

430 (9) In addition to the authority to expend matching funds
431 under Section 21-19-65, the governing authority of any
432 municipality, in its discretion, may expend municipal funds to
433 match any state, federal or private funding for any program
434 administered by the State of Mississippi, the United States
435 government or any nonprofit organization that is exempt under 26
436 USCS Section 501(c)(3) from paying federal income tax.

437 (10) The governing authority of any municipality that owns
438 and operates a gas distribution system, as defined in Section
439 21-27-11(b), and the governing authority of any public natural gas
440 district are authorized to contract for the purchase of the supply
441 of natural gas for a term of up to ten (10) years with any public
442 nonprofit corporation which is organized under the laws of this
443 state or any other state.

444 (11) The powers conferred by this section shall be in
445 addition and supplemental to the powers conferred by any other
446 law, and nothing contained in this section shall be construed to
447 prohibit, or to prescribe conditions concerning, any practice or
448 practices authorized under any other law.

449 **SECTION 3.** Section 1 of this act shall be codified as a
450 separate code section in Title 21, Chapter 27, Mississippi Code of
451 1972.

452 **SECTION 4.** This act shall take effect and be in force from
453 and after its passage.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO PROVIDE THAT THE GOVERNING AUTHORITY OF ANY
2 MUNICIPALITY THAT OWNS AND OPERATES A GAS DISTRIBUTION SYSTEM AND
3 THE GOVERNING AUTHORITY OF ANY PUBLIC NATURAL GAS DISTRICT MAY
4 CONTRACT FOR THE PURCHASE OF THE SUPPLY OF NATURAL GAS FROM ANY
5 PUBLIC NONPROFIT CORPORATION FOR UP TO 10 YEARS; TO AMEND SECTION
6 21-17-1, MISSISSIPPI CODE OF 1972, AS AMENDED BY HOUSE BILL NO.
7 606, 2004 REGULAR SESSION, IN CONFORMITY THERETO, TO PERMIT A
8 MUNICIPALITY TO ENGAGE A REALTOR TO SELL SURPLUS REAL PROPERTY AND
9 BE PAID A COMMISSION FOR SERVICES RENDERED, AND TO AUTHORIZE
10 MUNICIPALITIES TO ESTABLISH AN EMPLOYER-ASSISTED HOUSING PROGRAM
11 TO ASSIST EMPLOYEES WHEN PURCHASING A HOME; AND FOR RELATED
12 PURPOSES.

CONFEREES FOR THE SENATE

CONFEREES FOR THE HOUSE

X (SIGNED)
Terry C. Burton

X (SIGNED)
Walter L. Robinson, Jr.

X (SIGNED)
Merle Flowers

(NOT SIGNED)
David W. Myers

X (SIGNED)
Tom King

X (SIGNED)
William Miles