

By: Representative Robinson (63rd)

To: Municipalities

## HOUSE BILL NO. 856

1 AN ACT TO AMEND SECTION 21-17-1, MISSISSIPPI CODE OF 1972, TO  
2 AUTHORIZE ANY MUNICIPALITY TO ENTER INTO AGREEMENTS AND CONTRACTS  
3 AND TO PROVIDE AND DELIVER ANY SERVICES OR ASSISTANCE AND TO  
4 AUTHORIZE ANY MUNICIPALITY TO RECEIVE, EXPEND AND ADMINISTER ANY  
5 GRANTS, GIFTS, MATCHING FUNDS, LOANS OR OTHER MONIES; AND FOR  
6 RELATED PURPOSES.

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

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

10 21-17-1. (1) Every municipality of this state shall be a  
11 municipal corporation and shall have power to sue and be sued; to  
12 purchase and hold real estate, either within or without the  
13 corporate limits, for all proper municipal purposes, including  
14 parks, cemeteries, hospitals, schoolhouses, houses of correction,  
15 waterworks, electric lights, sewers and other proper municipal  
16 purposes; to purchase and hold personal property for all proper  
17 municipal purposes; to acquire equipment and machinery by  
18 lease-purchase agreement and to pay interest thereon, if  
19 contracted, when needed for proper municipal purposes; to sell and  
20 convey any real and personal property owned by it, and make such  
21 order respecting the same as may be deemed conducive to the best  
22 interest of the municipality, and exercise jurisdiction over the  
23 same.

24 (2) (a) In case any of the real property belonging to a  
25 municipality shall cease to be used for municipal purposes, the  
26 governing authority of the municipality may sell, convey or lease  
27 the same on such terms as the municipal authority may elect. In  
28 case of a sale on a credit, the municipality shall charge  
29 appropriate interest as contracted and shall have a lien on the

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

63 lease same for any of the purposes set forth herein without having  
64 to advertise for and accept competitive bids.

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

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

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

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

89 (a) The governing authority may donate such lands to a  
90 bona fide not-for-profit civic or eleemosynary corporation  
91 organized and existing under the laws of the State of Mississippi  
92 and granted tax exempt status by the Internal Revenue Service and  
93 may donate such lands and necessary funds related thereto to the  
94 public school district in which the land is situated for the  
95 purposes set forth herein. Any deed or conveyance executed

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

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

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

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

122 (4) Every municipality shall also be authorized and  
123 empowered to loan to private persons or entities, whether  
124 organized for profit or nonprofit, funds received from the United  
125 States Department of Housing and Urban Development (HUD) under an  
126 urban development action grant or a community development block  
127 grant under the Housing and Community Development Act of 1974  
128 (Public Law 93-383), as amended, and to charge interest thereon if

129 contracted, provided that no such loan shall include any funds  
130 from any revenues other than the funds from the United States  
131 Department of Housing and Urban Development; to make all contracts  
132 and do all other acts in relation to the property and affairs of  
133 the municipality necessary to the exercise of its governmental,  
134 corporate and administrative powers; and to exercise such other or  
135 further powers as are otherwise conferred by law.

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

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

156       (c) If the assistance authorized under this subsection  
157 (5) is structured as a forgivable loan, the participating employee  
158 must remain as an employee of the municipality for an agreed upon  
159 period of time, as determined by the rules and regulations adopted  
160 by the governing authority of the municipality, in order to have  
161 the loan forgiven. The forgiveness structure, amount of

assistance and repayment terms shall be determined by the governing authority of the municipality.

(6) The governing authority of any municipality may contract with a private attorney or private collection agent or agency to collect any type of delinquent payment owed to the municipality, including, but not limited to, past due fees and fines. Any such contract debt may provide for payment contingent upon successful collection efforts or payment based upon a percentage of the delinquent amount collected; however, the entire amount of all delinquent payments collected shall be remitted to the municipality and shall not be reduced by any collection costs or fees. Any private attorney or private collection agent or agency contracting with the municipality under the provisions of this subsection shall give bond or other surety payable to the municipality in such amount as the governing authority of the municipality deems sufficient. Any private attorney with whom the municipality contracts under the provisions of this subsection must be a member in good standing of The Mississippi Bar. Any private collection agent or agency with whom the municipality contracts under the provisions of this subsection must meet all licensing requirements for doing business in the State of Mississippi. Neither the municipality nor any officer or employee of the municipality shall be liable, civilly or criminally, for any wrongful or unlawful act or omission of any person or business with whom the municipality has contracted under the provisions of this subsection. The Mississippi Department of Audit shall establish rules and regulations for use by municipalities in contracting with persons or businesses under the provisions of this subsection. If a municipality uses its own employees to collect any type of delinquent payment owed to the municipality, then from and after July 1, 2000, the municipality may charge an additional fee for collection of the delinquent payment provided the payment has been delinquent for ninety (90) days. The

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

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

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

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

228       (10) The governing authority of any municipality that owns  
229 and operates a gas distribution system, as defined in Section  
230 21-27-11(b), and the governing authority of any public natural gas  
231 district are authorized to contract for the purchase of the supply  
232 of natural gas for a term of up to ten (10) years with any public  
233 nonprofit corporation which is organized under the laws of this  
234 state or any other state.

235       (11) The governing authority of any municipality may perform  
236 and exercise any duty, responsibility or function, may enter into  
237 agreements and contracts, may provide and deliver any services or  
238 assistance, and may receive, expend and administer any grants,  
239 gifts, matching funds, loans or other monies, in accordance with  
240 and as may be authorized by any federal law, rule or regulation  
241 creating, establishing or providing for any program, activity or  
242 service. The provisions of this subsection shall not be construed  
243 as authorizing any municipality, the governing authorities of such  
244 municipality to perform any function or activity that is  
245 specifically prohibited under the laws of this state or as  
246 granting any authority in addition to or in conflict with the  
247 provisions of any federal law, rule or regulation.

248       (12) The powers conferred by this section shall be in  
249 addition and supplemental to the powers conferred by any other  
250 law, and nothing contained in this section shall be construed to  
251 prohibit, or to prescribe conditions concerning, any practice or  
252 practices authorized under any other law.

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