

By: Representatives Henderson (9th), Miller To: Local and Private
Legislation; Ways and
Means

HOUSE BILL NO. 1559
(As Passed the House)

1 AN ACT TO AMEND CHAPTER 955, LOCAL AND PRIVATE LAWS OF 1996,
2 AS AMENDED BY CHAPTER 952, LOCAL AND PRIVATE LAWS OF 1998, TO
3 INCREASE THE TOURISM TAX IN TUNICA COUNTY; AND FOR RELATED
4 PURPOSES.

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

6 SECTION 1. Chapter 955, Local and Private Laws of 1996, as
7 amended by Chapter 952, Local and Private Laws of 1998, is
8 amended as follows:

9 Section 1. The following terms as used in this act shall
10 have the meanings ascribed in this section unless the context
11 otherwise clearly requires:

12 (a) "Bar" means any bar, tavern or lounge where
13 alcoholic beverages are sold for consumption on the premises;

14 (b) "Casino" means any casino properly licensed by the
15 Mississippi Gaming Commission and operating in Tunica County,
16 Mississippi;

17 (c) "Commission" means the Tunica County Tourism
18 Commission;

19 (d) "Complimentary sales" or "complimentaries" means
20 activities involving the furnishing or providing of rooms for
21 lodging or sleeping, or the furnishing or providing of food or
22 beverage for the public's consumption, or the furnishing or
23 providing of other services, which any casino performs without
24 cost to the recipient at the point of sale;

25 (e) "County" means Tunica County, Mississippi;

26 (f) "Governing authorities" means the Tunica County
27 Board of Supervisors and the Mayor and Board of Aldermen of the

28 Town of Tunica;

29 (g) "Hotel" or "motel" means any establishment engaged
30 in the business of furnishing or providing rooms intended or
31 designed for lodging or sleeping purposes for transient guests,
32 which establishment consists of ten (10) or more guest rooms, and
33 does not encompass any hospital, convalescent or nursing home or
34 sanitarium or any hotel-like facility operated by or in connection
35 with a hospital or medical clinic providing rooms exclusively for
36 patients and their families;

37 (h) "Prepared food" means food prepared on the premises
38 of a restaurant;

39 (i) "Retail sales" means gross cash receipts (the term
40 does not include complimentaries);

41 (j) "Restaurant" means any place, including hotel and
42 motel dining rooms, casinos, cafeterias, cafes and lunch stands,
43 where prepared food and drink are sold for consumption either upon
44 or off the premises, but does not include small grocery stores or
45 service stations where the sale of prepared food constitutes less
46 than fifty percent (50%) of the gross sales;

47 (k) "Town" means the Town of Tunica, Mississippi.

48 Section 2. (1) There is created the Tunica County Tourism
49 Commission, which shall be a public corporation in perpetuity
50 under its corporate name and in that name shall be a body politic
51 and corporate, with power of perpetual succession, for the purpose
52 of supervising and promoting tourism within Tunica County,
53 Mississippi, and other related activities. The Tourism Commission
54 shall be domiciled in Tunica County, Mississippi.

55 (2) The governing authorities are authorized to contract
56 with the commission for the administrative responsibilities of
57 promoting, creating and administering a tourism program and
58 related activities for the county. The governing authorities are
59 authorized to provide funding, personnel and other support to the
60 commission. The amount and type of funding shall be determined by

61 each governing authority acting jointly or independently by
62 resolution of the governing authority duly adopted and spread on
63 their minutes. The governing authorities are authorized to
64 appropriate funds to the commission.

65 Section 3. (1) The commission shall be governed by a board
66 of commissioners composed of six (6) members appointed as provided
67 in subsection (2) of this section. The commissioners shall serve
68 without compensation. The term of each commissioner shall be for
69 a period of four (4) years.

70 (2) (a) Five (5) members of the commission shall be
71 appointed by the Board of Supervisors of Tunica County, two (2) of
72 whom shall be general managers of casinos located in Tunica
73 County.

74 (b) One (1) member of the commission shall be appointed
75 by the governing authorities of the Town of Tunica.

76 (3) Any vacancy that occurs shall be filled in the same
77 manner as provided for the original appointment and shall be made
78 for the unexpired term. Each member shall serve until a successor
79 is appointed and qualified. If a vacant position is not filled
80 within sixty (60) days of the vacancy, the Tunica County Board of
81 Supervisors shall appoint a member.

82 (4) Any member of the commission who is absent from three
83 (3) or more consecutive meetings or who is absent from fifty
84 percent (50%) or more of all meetings of the board in any given
85 calendar year shall be deemed to have vacated such position,
86 unless otherwise excused by action of the board of commissioners.

87 (5) The commission shall adopt a set of bylaws which may
88 include provisions they deem appropriate but shall include
89 provisions for the following:

90 (a) Procedures and times for its meetings. Unless
91 otherwise provided therein, the board shall follow Roberts Rules
92 of Order at its meetings. The board shall comply with the state
93 Open Meetings Law, Section 25-41-1 et seq., Mississippi Code of

94 1972;

95 (b) The secretary-treasurer making a monthly report to
96 the board concerning the current operational and financial status
97 of the commission and providing a written copy of such report to
98 the governing authorities; and

99 (c) The board annually causing a full and complete
100 examination of all the books and accounts of the commission to be
101 made by an independent, certified public accountant and providing
102 a copy of the examination to the governing authorities and to the
103 Department of Audit of the State of Mississippi.

104 (6) Before entering upon the duties of office, each
105 commissioner shall take and subscribe to the oath of office
106 required by Section 268, Mississippi Constitution of 1890, and
107 shall give bond in a sum of not less than Five Thousand Dollars
108 (\$5,000.00), conditioned upon the faithful performance of his
109 duties, such bond to be made payable to and approved by the
110 chancery clerk of the county. The cost of all such bonds shall be
111 paid by the commission.

112 (7) Within thirty (30) days after the initial appointments
113 of the commissioners have been made, the commission shall meet and
114 elect from among its membership a chairman, vice chairman and
115 secretary-treasurer and shall adopt a seal and such bylaws, rules
116 and regulations as may be necessary to govern the time, place and
117 manner for holding subsequent meetings of the commission and for
118 the conduct of its business, not inconsistent with the provisions
119 of this act. The commission shall record and retain minutes of
120 all meetings. The commission shall require the necessary and
121 appropriate bond for persons authorized or responsible for the
122 funds of the commission. Any action taken by the commission shall
123 be official at the time the action is taken. Actions may be taken
124 by the commission at any regular, special, recessed or adjourned
125 meeting.

126 (8) The commissioners may be reimbursed for actual expenses,

127 including mileage and travel expenses, whether within or without
128 the State of Mississippi, incurred in the performance of their
129 duties, as authorized by Section 25-3-41, Mississippi Code of
130 1972.

131 (9) The commissioners may employ such personnel and take
132 other acts they deem necessary to carry out the purpose of the
133 commission. The commissioners shall set the level of the
134 compensation to be paid to the commission's employees.

135 Section 4. The commission may take any and all acts
136 necessary to effectuate the purposes of this act.

137 Section 5. The carrying out of the purposes of the
138 commission is in all respects for the benefit of the people of the
139 county and is a public purpose, and the commission will be
140 performing an essential governmental function in the exercise of
141 the powers conferred upon it by this act.

142 Section 6. The commission, in addition to the monies that
143 may be received by it from the governing authorities as taxes as
144 provided for in Section 8 of this act, may accept from any public
145 or private agency, or from any individual, grants for or in aid of
146 the construction of any project and may receive and accept
147 contributions, from any source, of money or property or other
148 things of value to be held, used and applied for the purposes for
149 which such grants or contributions may be made.

150 Section 7. With the prior approval of the Board of
151 Supervisors of Tunica County, the commission may (a) apply for and
152 accept grants and loans on behalf of the governing authorities
153 from the State of Mississippi or the United States of America or
154 any agency thereof and (b) contract with any agency of the State
155 of Mississippi or the United States of America for the development
156 of tourism.

157 Section 8. (1) For the purpose of providing funds for the
158 commission to promote conventions and tourism in Tunica County,
159 the Board of Supervisors of Tunica County may levy and assess

160 against and collect from every person, firm, corporation or other
161 entity operating hotels or motels in Tunica County, an assessment,
162 in addition to all other taxes imposed, which may be cited as a
163 "tourism tax," which shall not exceed a sum equal to three percent
164 (3%) of the gross proceeds of sales from room rentals of all
165 hotels and motels in Tunica County, excluding charges for food,
166 beverage, telephone, laundry and other similar charges. The tax
167 shall not be levied upon or collected from gross proceeds of
168 nontaxable rooms, complimentary rooms or room rentals for day
169 meetings that do not serve as overnight sleeping accommodations.

170 (2) The Board of Supervisors of Tunica County also may
171 impose upon persons doing business within Tunica County, in
172 addition to the tax imposed on hotel and motel rooms under
173 subsection (1) of this section, an assessment in addition to all
174 other taxes imposed, which may also be cited as "tourism tax,"
175 which shall not exceed three percent (3%) of the gross proceeds of
176 restaurants and bars derived from retail sales of prepared food or
177 alcoholic beverages (which includes beer and light wine), or both.

178 This tax shall not be levied upon or collected from gross
179 proceeds from complimentary sales of food or beverage.

180 (3) Before the taxes authorized by this section may be
181 imposed, the Board of Supervisors of Tunica County shall adopt a
182 resolution declaring its intention to levy the taxes and
183 establishing the amount of the tax levies and the date on which
184 the taxes initially will be levied and collected. This date shall
185 be the first day of a month but not earlier than the first day of
186 the second month from the date of adoption of the resolution.
187 Notice of the proposed tax levies shall be published once each
188 week for at least three (3) consecutive weeks in a newspaper
189 having a general circulation in the county. The first publication
190 of the notice shall be made not less than twenty-one (21) days
191 before the date fixed in the resolution on which the board of
192 supervisors proposes to levy the taxes, and the last publication

193 of the notice shall be made not more than seven (7) days before
194 that date. If, within the time of giving notice, twenty percent
195 (20%) or fifteen hundred (1500), whichever is less, of the
196 qualified electors of the county file a written petition against
197 the levy of the taxes, then the taxes shall not be levied unless
198 authorized by a majority of the qualified electors of the county,
199 voting at an election to be called and held for that purpose.
200 Before the effective date of the tax levies approved as provided
201 in this section, the board of supervisors shall furnish to the
202 Chairman of the State Tax Commission a certified copy of the
203 resolution evidencing the tax levies.

204 (4) Persons, firms or corporations liable for the taxes
205 under this section shall add the amount of the tax to the sales
206 price and, in addition thereto, shall collect, insofar as
207 practicable, the amount of the tax due by them from the person
208 receiving the services at the time of payment therefor.

209 (5) All such taxes shall be collected by and paid to the
210 State Tax Commission on a form prescribed by the State Tax
211 Commission in the same manner that state sales taxes are computed,
212 collected and paid. The full enforcement provisions and all other
213 provisions of Chapter 65, Title 27, Mississippi Code of 1972,
214 shall apply as necessary to the implementation and administration
215 of this act.

216 (6) The proceeds of such taxes, less three percent (3%) to
217 be retained by the State Tax Commission to defray the costs of
218 collections, shall be paid to Tunica County on or before the
219 fifteenth day of the month following the month in which collected
220 and shall be disbursed by Tunica County to the commission within
221 thirty (30) days of receipt by Tunica County.

222 (7) The proceeds of such taxes shall not be considered by
223 the county as general fund revenue but shall be dedicated to and
224 used by the commission solely for the purpose of carrying out
225 programs and activities designed to attract visitors, to promote

226 conventions and to promote tourism in the county.

227 (8) The commission shall, at least annually, develop a plan
228 to attract visitors, to promote conventions, to promote tourism to
229 and in Tunica County and to provide for the operation of the
230 commission.

231 Section 9. The books of the commission shall be audited
232 annually by an independent certified public accountant, and the
233 accountant shall make a written report of his audit of the taxes
234 collected under Section 8 of this act to the commission and the
235 governing authorities. The audit shall be made and completed as
236 soon as practicable after the close of the fiscal year, and copies
237 of the report of the audit shall be filed with the county within
238 fifteen (15) days after receipt thereof by the commission.

239 Section 10. This act shall be deemed to be full and complete
240 authority for the exercise of the powers herein granted in the
241 county.

242 Section 11. If any one or more sections, clauses, sentences
243 or parts of this act shall for any reason be questioned in any
244 court and adjudged unconstitutional or invalid, such judgment
245 shall not affect, impair or invalidate the remaining provisions of
246 this act but shall be confined in its operations to the specific
247 provisions so held invalid; and inapplicability or invalidity of
248 any such section, clause, provision or part shall not be taken to
249 affect or prejudice in any way the remaining part or parts of this
250 act.

251 Section 12. The Board of Supervisors of Tunica County shall
252 submit this act, immediately upon approval by the Governor, or
253 upon approval by the Legislature subsequent to a veto, to the
254 Attorney General of the United States or to the United States
255 District Court for the District of Columbia in accordance with the
256 provisions of the Voting Rights Act of 1965, as amended and
257 extended.

258 Section 13. This act shall take effect and be in force from

259 and after the date it is effectuated under Section 5 of the Voting
260 Rights Act of 1965, as amended and extended.

261 SECTION 2. This act shall take effect and be in force from
262 and after July 1, 1999.