

By: Senator(s) Minor

To: Local and Private;
Finance

SENATE BILL NO. 3118

1 AN ACT TO AMEND CHAPTER 945, LOCAL AND PRIVATE LAWS OF 1998,
2 TO INCREASE THE SPECIAL TAX THAT THE CITY OF HOLLY SPRINGS MAY
3 LEVY ON THE GROSS PROCEEDS OF CERTAIN SALES OF RESTAURANTS FROM 1%
4 TO 2%; AND FOR RELATED PURPOSES. BE IT ENACTED BY THE
5 LEGISLATURE OF THE STATE OF MISSISSIPPI:
6

7 SECTION 1. Chapter 945, Local and Private Laws of 1998, is
8 amended as follows:

9 Section 1. As used in this act, the following words shall
10 have the meanings ascribed to them in this section unless
11 otherwise clearly indicated by the context in which they are used:

12 (a) "Act" means this act.

13 (b) "City" means the City of Holly Springs,
14 Mississippi.

15 (c) "Governing body" means the Mayor and Board of
16 Aldermen of Holly Springs, Mississippi.

17 (d) "Hotel" or "motel" means any establishment engaged
18 in the business of furnishing or providing rooms intended or
19 designed for dwelling, lodging or sleeping purposes to transient
20 guests and which are known in the trade as such, where the
21 establishment consists of five (5) or more guest rooms. The term
22 "hotel" or "motel" does not include any hospital, convalescent or
23 nursing home or sanitarium, or any hotel-like facility operated by
24 or in connection with a hospital or medical clinic providing rooms
25 exclusively for patients and their families.

26 (e) "Project" means the establishment and operation of
27 a tourism department; development of the North Memphis project;
28 establishment of a historical district; the construction of a

29 multi-purpose sports complex and related appurtenances within or
30 in close proximity to the corporate limits of the city, and shall
31 include, but not be limited to, the purchase of property for such
32 purposes; construction of an amphitheater and multi-purpose sports
33 structures; construction of and/or resurfacing of tennis courts;
34 construction of and/or improvements to baseball and softball
35 fields; architect, engineering and legal fees associated with the
36 project; road construction for access to facilities; parking
37 areas; utilities; restroom facilities; bleachers or other seating
38 for tennis courts, baseball fields and softball fields; and
39 scoreboards.

40 (f) "Restaurant" means and includes all places within
41 the city where prepared foods and beverages are sold for
42 consumption whether such food is consumed on the premises or not,
43 and businesses that cater food. "Restaurant" as defined herein
44 does not include any school, hospital, convalescent or nursing
45 home, or any restaurant-like facility operated by or in connection
46 with a school, hospital, medical clinic, convalescent or nursing
47 home, or prison facility providing food for students, patients,
48 inmates, visitors and their families.

49 Section 2. In addition to the powers and authority granted
50 under this act, the governing body shall have jurisdiction and
51 authority over all matters relating to the promotion,
52 establishment, development, construction, furnishing and equipping
53 of the project, including the authority to enter into such
54 contracts and agreements as may be necessary to carry out the
55 intent of this act. In carrying out the provisions of this act,
56 the governing body shall adhere to the provisions of the public
57 purchasing laws, public works contracts laws and public bid laws
58 as provided by the laws of the State of Mississippi, except as may
59 be expressly otherwise provided for herein.

60 The governing body is further authorized to receive and
61 expend, subject to the provisions of this act, revenues from any
62 source for the purposes enumerated herein.

63 Section 3. (1) For the purpose of providing funds for the
64 promotion, establishment, development, construction, furnishing,
65 equipping, erection, operation and maintenance of the project,

66 there is hereby levied, assessed and shall be collected from every
67 person engaging in or doing business in the city, as provided in
68 subsection (2) of this section, a tax which may be cited as the
69 "recreation and public improvement promotion tax," which shall be
70 in addition to all other taxes now imposed.

71 (2) Such tax shall be in an amount not to exceed two percent
72 (2%) of the gross proceeds of sales of hotels and motels, and not
73 to exceed two percent (2%) of the gross proceeds of restaurants
74 derived from the sale of beer and alcoholic beverages that are
75 sold for consumption on the premises and from the sale of all
76 prepared foods.

77 (3) Persons, firms and corporations liable for the tax
78 imposed herein shall add the amount of tax to the sales price of
79 or gross proceeds of sales from the goods, products and services
80 subject to the tax and, in addition thereto, shall collect insofar
81 as practicable the amount of the tax due by them from the person
82 receiving the services or goods at the time of payment therefor.

83 (4) Such tax shall be collected as set forth in subsection
84 (3) above and paid to the State Tax Commission in the same manner
85 that state sales taxes are computed, collected and paid; and the
86 full enforcement provisions of Chapter 65, Title 27, Mississippi
87 Code of 1972, shall apply as necessary to the implementation and
88 administration of this act.

89 (5) The proceeds of such tax, less three percent (3%) to be
90 retained by the State Tax Commission to defray the costs of
91 collection, shall be paid to the city on or before the fifteenth
92 day of the month following the month in which they were collected.

93 (6) The proceeds of the tax shall not be considered by the
94 city as general fund revenues but shall be dedicated solely for
95 the purpose of carrying out the project.

96 (7) Not more than two (2) months following the time that (a)
97 the project has been completed, and (b)(i) either all principal,
98 interest, costs and other expenses for all bonds, notes or other

99 borrowings under this act have been paid and are completely
100 satisfied, or (ii) there exists in any special account established
101 to retire such bonds, notes or other borrowings an amount on
102 deposit which, together with any earnings on investments to accrue
103 to the account, is equal to or greater than the amount necessary
104 to pay such indebtedness, then the city may set the tax being
105 levied hereunder at a rate the avails of which will not exceed the
106 amount necessary to pay continuing operation and maintenance costs
107 of the project but in no event to exceed two percent (2%) of the
108 gross proceeds of sales of hotels, motels and restaurants.

109 Section 4. Before the taxes authorized by this act shall be
110 imposed, the governing body of the city shall adopt a resolution
111 declaring its intention to:

112 (a) Levy the tax, setting forth the amount of such tax
113 and establishing the date on which the tax initially shall be
114 levied and collected; and

115 (b) Issue bonds of the city to provide funds to defray
116 the cost of the project, setting forth the estimated amount of
117 bonds to be issued and a general description of the project, if
118 the governing body elects to include provisions for issuance of
119 bonds in such resolution.

120 The resolution shall state the time, date and place upon
121 which the governing body shall take action to authorize and direct
122 levying the tax and, if applicable, the issuance of bonds. The
123 resolution shall be published in a local newspaper at least three
124 (3) times over three (3) consecutive weeks, with the last
125 publication made no less than seven (7) days prior to the date set
126 forth in the resolution on which the governing body would proceed
127 to levy the tax and, if applicable, issue the bonds.

128 If, after giving notice, twenty percent (20%) or fifteen
129 hundred (1500), whichever is less, of the qualified electors of
130 the city shall file a written petition against the levy of such
131 tax or the issuance of the bonds, or both, at or prior to the time

132 and date set forth in the resolution, then such tax shall not be
133 levied and the bonds shall not be issued unless authorized by a
134 majority of the qualified electors of the city voting at an
135 election to be called and held for such purpose or purposes. The
136 election shall be conducted in the same manner as other city
137 elections, and the governing body shall direct the city election
138 commissioners to conduct such election. The effective date of
139 such tax levy shall not be sooner than the first day of the second
140 month from the date the governing body adjudicated no protest to
141 levying the tax or the date of a favorable election on the
142 question of levying the tax, as the case may be. If no protest or
143 an insufficient protest is presented, the bonds may be issued at
144 any time within two (2) years of the date the governing body
145 adjudicates no protest or, in the alternative, within two (2)
146 years of a favorable election on the issuance of the bonds.

147 Before the effective date of the tax levy approved herein,
148 the governing body shall furnish a certified copy of the
149 resolution evidencing such tax levy to the Chairman of the State
150 Tax Commission.

151 Section 5. The governing body shall adopt its first budget
152 of receipts and expenditures to cover the period beginning with
153 the effective date of the tax and ending with the end of the
154 city's fiscal year; and, thereafter, the budget shall be on the
155 same fiscal basis as the budget of the city.

156 Section 6. Accounting for receipts and expenditures of the
157 funds herein described shall be made separate from the accounting
158 of receipts and expenditures of the general fund and any other
159 funds of the city. The records reflecting the receipts and
160 expenditures of the funds prescribed herein shall be audited
161 annually as a part of the annual audit of the city or by
162 independent audit if so determined by the governing body. Such
163 audit shall be made and completed as soon as practicable after the
164 close of the fiscal year, and expenses of such audit may be paid

165 from the funds derived pursuant to Section 3 of this act.

166 Section 7. The governing body of the city may borrow money
167 for the purposes set forth in this act in any one or any
168 combination of the following methods: The city is authorized to
169 issue, from time to time, negotiable bonds of the city for the
170 purposes set forth in Section 2 of this act and to pay for costs
171 of issuing the bonds (including bond insurance, credit
172 enhancements, rating agency fees and legal fees and expenses),
173 which bonds may be secured by all or any portion of the tax
174 revenue generated in Section 3 of this act, along with such other
175 security as may be provided by the city. The city is further
176 authorized to incur debt, borrow funds and/or issue bonds for the
177 purposes set forth in Section 2 herein pursuant to Section 31-25-1
178 et seq., Mississippi Code of 1972. Revenue bonds authorized to be
179 issued or debt incurred under this act shall not be included
180 within the limitation on indebtedness imposed in Section
181 21-33-303, Mississippi Code of 1972.

182 The city is hereby further authorized to issue general
183 obligation bonds of the city pursuant to Section 21-33-301 et
184 seq., Mississippi Code of 1972; provided, however, that upon
185 compliance with the requirements set forth in Section 4 of this
186 act, compliance with Sections 21-33-307 through 21-33-311,
187 Mississippi Code of 1972, shall not be required. General
188 obligation bonds issued pursuant to this paragraph shall be exempt
189 from the debt limit imposed by Section 21-33-303, Mississippi Code
190 of 1972, to the extent that such debt is paid with the tax
191 revenues generated pursuant to Section 3 hereof and not with an ad
192 valorem tax levy.

193 Section 8. If the city elects to issue revenue bonds to
194 defray the cost of the project, such bonds may be serial or term;
195 redeemable, with or without premium, or nonredeemable and
196 registered with registration privileges as to principal and
197 interest; shall bear interest at a rate to be determined pursuant

198 to the sale of the bonds; and shall be payable at such time or
199 times as shall be prescribed in the ordinance authorizing them.
200 The bonds shall mature at such time or times, not exceeding the
201 estimated life of the improvements and in no event longer than
202 thirty (30) years from their date, and at such place or places, as
203 shall be prescribed in the ordinance authorizing their issuance.
204 All bonds and interest thereon issued pursuant to the authority
205 granted in this act shall possess all the qualities of negotiable
206 instruments. The bonds shall be executed in such manner and shall
207 be substantially in the form prescribed in the authorizing
208 ordinance. In case any of the officers whose signatures or
209 countersignatures appear on the bonds shall cease to be such
210 officers before delivery of such bonds, such signatures or
211 countersignatures shall nevertheless be valid and sufficient for
212 all purposes the same as if they had remained in office until such
213 delivery. No bond shall bear more than one (1) rate of interest.

214 Each bond shall bear interest from its date to its stated
215 maturity date at the interest rate specified in the bid. All
216 bonds of the same maturity shall bear the same rate of interest
217 from date to maturity. All interest accruing on such bonds so
218 issued shall be payable semiannually or annually, except that the
219 first interest payment on any such bond may be for any period not
220 exceeding two (2) years.

221 No interest payment shall be evidenced by more than one (1)
222 rate of interest. Such bonds shall be sold in such manner and
223 upon such terms as the governing body of the city shall determine,
224 provided that such bonds shall not bear a greater overall maximum
225 interest rate to maturity than that allowed in Section 75-17-103,
226 Mississippi Code of 1972, and the interest rate on any one (1)
227 interest maturity shall not exceed the maximum interest rate
228 allowed on such bonds. If the bonds are serial bonds, such bonds
229 shall mature annually, and the first maturity date thereof shall
230 not be more than two (2) years from the date of such bonds. Such

231 bonds shall be legal investments for trustees and other
232 fiduciaries, and for savings banks, trust companies and insurance
233 companies organized under the laws of the State of Mississippi.

234 The principal of and interest on such bonds shall be payable
235 solely from the revenues derived from levying the tax described in
236 Section 3 of this act and such other security as may be provided
237 by the city. No bond issued pursuant to the authority granted in
238 this section shall constitute an indebtedness of a municipality
239 within the meaning of any statutory or charter restriction,
240 limitation or provision. It shall be plainly stated on the face
241 of each such bond in substance that the same has been issued
242 pursuant to the authority granted in this act and that the taxing
243 power of the city is not pledged to the payment of such bond or
244 interest thereon, and that such bond and the interest thereon are
245 payable solely from the revenues derived from levying the tax
246 described in Section 3 hereof and such other security as may be
247 provided by the city.

248 Such bonds shall be sold at public or private sale and, if
249 sold at public sale, shall be sold in the manner provided by
250 Section 31-19-25, Mississippi Code of 1972.

251 The city is hereby authorized to employ investment bankers,
252 underwriters, financial advisors, legal counsel, bond counsel and
253 such other required professionals and to pay the fees and expenses
254 incidental thereto.

255 Section 9. This act, without reference to any other statute
256 not referred to herein, shall be deemed to be full and complete
257 authority to carry out the activities set forth herein, including
258 levying the tax authorized pursuant to Section 4 hereof, borrowing
259 money and issuing bonds; and this act shall be construed as an
260 additional and alternate method therefor.

261 Section 10. Any bonds issued under the provisions of this
262 act may be validated in the manner provided by law.

263 Section 11. The governing body of the city is further

264 authorized and empowered to adopt any and all lawful resolutions,
265 orders or ordinances; execute and deliver such agreements,
266 contracts, indentures and certificates; and do and perform any and
267 all other acts and things necessary and requisite to levy the tax,
268 issue the bonds and carry out the purposes of this act.

269 Section 12. The governing authorities of the City of Holly
270 Springs, Mississippi, shall submit this act, immediately upon
271 approval by the Governor, or upon approval by the Legislature
272 subsequent to a veto, to the Attorney General of the United States
273 or to the United States District Court for the District of
274 Columbia in accordance with the provisions of the Voting Rights
275 Act of 1965, as amended and extended.

276 Section 13. This act shall take effect and be in force from
277 and after the date it is effectuated under Section 5 of the Voting
278 Rights Act of 1965, as amended and extended.

279 SECTION 2. This act shall take effect and be in force from
280 and after its passage.