

By: Senator(s) Minor

To: Local and Private;
Finance

SENATE BILL NO. 3118
(As Sent to Governor)

1 AN ACT TO AMEND CHAPTER 945, LOCAL AND PRIVATE LAWS OF 1998,
2 TO PROVIDE THAT THE PROJECTS AUTHORIZED IN SUCH LAW SHALL BE
3 ADMINISTERED BY THE HOLLY SPRINGS RECREATIONAL FACILITIES BUREAU;
4 TO PROVIDE FOR THE MEMBERSHIP, POWERS AND DUTIES OF SUCH BUREAU;
5 TO INCREASE THE SPECIAL TAX THAT THE CITY OF HOLLY SPRINGS MAY
6 LEVY ON THE GROSS PROCEEDS OF CERTAIN SALES OF RESTAURANTS FROM 1%
7 TO 2%; AND FOR RELATED PURPOSES. BE IT ENACTED BY THE
8 LEGISLATURE OF THE STATE OF MISSISSIPPI:

9
10 SECTION 1. Chapter 945, Local and Private Laws of 1998, is
11 amended as follows:

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

15 (a) "Act" means this act.

16 (b) "Board of aldermen" means the Board of Aldermen of
17 the City of Holly Springs.

18 (c) "Bureau" means the Holly Springs Tourism and
19 Recreational Facilities Bureau.

20 (d) "City" means the City of Holly Springs,
21 Mississippi.

22 (e) "Governing body" means the Mayor and Board of
23 Aldermen of Holly Springs, Mississippi.

24 (f) "Hotel" or "motel" means any establishment engaged
25 in the business of furnishing or providing rooms intended or
26 designed for dwelling, lodging or sleeping purposes to transient
27 guests and which are known in the trade as such, where the
28 establishment consists of five (5) or more guest rooms. The term
29 "hotel" or "motel" does not include any hospital, convalescent or

30 nursing home or sanitarium, or any hotel-like facility operated by
31 or in connection with a hospital or medical clinic providing rooms
32 exclusively for patients and their families.

33 (g) "Mayor" means the Mayor of the City of Holly
34 Springs, Mississippi.

35 (h) "Project" means the * * * development of the North
36 Memphis project; establishment of a historical district; the
37 construction of a multi-purpose sports complex and related
38 appurtenances within or in close proximity to the corporate limits
39 of the city, and shall include, but not be limited to, the
40 purchase of property for such purposes; construction of an
41 amphitheater and multi-purpose sports structures; construction of
42 and/or resurfacing of tennis courts; construction of and/or
43 improvements to baseball and softball fields; architect,
44 engineering and legal fees associated with the project; road
45 construction for access to facilities; parking areas; utilities;
46 restroom facilities; bleachers or other seating for tennis courts,
47 baseball fields and softball fields; and scoreboards.

48 (i) "Restaurant" means and includes all places within
49 the city where prepared foods and beverages are sold for
50 consumption whether such food is consumed on the premises or not,
51 and businesses that cater food. "Restaurant" as defined herein
52 does not include any school, hospital, convalescent or nursing
53 home, or any restaurant-like facility operated by or in connection
54 with a school, hospital, medical clinic, convalescent or nursing
55 home, or prison facility providing food for students, patients,
56 inmates, visitors and their families.

57 Section 2. (1) There is hereby created the Holly Springs
58 Tourism and Recreational Facilities Bureau which shall consist of
59 nine (9) members who shall be appointed, qualified and take office
60 within thirty (30) days after the effective date of this act. The
61 initial appointments to the bureau shall be as follows:

62 (a) One (1) member appointed by the alderman
63 representing Ward 1 for a term of two (2) years;

64 (b) One (1) member appointed by the alderman
65 representing Ward 2 for a term of two (2) years;

66 (c) One (1) member appointed by the alderman

67 representing Ward 3 for a term of three (3) years;

68 (d) One (1) member appointed by the alderman
69 representing Ward 4 for a term of three (3) years;

70 (e) One (1) member appointed by the alderman elected at
71 large for a term of four (4) years;

72 (f) One (1) member appointed by the Holly Springs
73 Chamber of Commerce for a term of four (4) years; and

74 (g) Three (3) members appointed by the mayor and
75 confirmed by the board of aldermen. One (1) of whom shall be
76 appointed for a term of one (1) year, one (1) of whom shall be
77 appointed for a term of two (2) years and one (1) of whom shall be
78 appointed for a term of three (3) years. The members appointed by
79 the mayor shall be owners or managers of hotels, motels and
80 restaurants who are residents of the city.

81 (2) All succeeding appointments shall be made by the
82 appropriate appointing authority listed in subsection (1) of this
83 section for a term of four (4) years or until their successors are
84 appointed and qualified.

85 (3) Any member of the bureau may be disqualified and removed
86 from office for any one (1) of the following reasons;

87 (a) Conviction of a felony; or

88 (b) Failure to attend three (3) consecutive meetings
89 without just cause.

90 (4) Any vacancy shall be filled in the same manner as the
91 original appointment and shall be made for the unexpired term.

92 Section 3. Before entering upon the duties of the office,
93 each member of the bureau shall enter into and give bond to be
94 approved by the Secretary of State in the sum of Twenty-five
95 Thousand Dollars (\$25,000.00) conditioned upon the faithful
96 performance of his duties. Such bond shall be payable to the
97 State of Mississippi; and in the event of a breach thereof, suit
98 may be brought by the State of Mississippi for the benefit of the
99 bureau.

100 Section 4. (1) When the members of the bureau shall have
101 been appointed and qualified as set forth herein, they shall meet
102 at quarters provided for them by the city after giving not less
103 than ten (10) days' notice of the time and place of such meeting
104 by registered mail, postage prepaid, directed to each member of
105 the bureau at his regular address given to the Secretary of State
106 at the time of his qualification and posting bond. At such
107 meeting a quorum shall be five (5) members, and a majority of
108 those members attending shall elect a president and secretary,
109 both of whom shall be members of the bureau, and shall adopt such
110 rules and regulations as may govern the time and place for holding
111 subsequent meetings, regular and special, and other rules and
112 regulations not inconsistent with the provisions of this act.

113 (2) The bureau is authorized to employ an executive
114 director; employ personnel; obtain supplies; purchase, lease or
115 sell real property; own, furnish, equip and operate any and all
116 facilities and equipment necessary or useful in the promotion and
117 development of tourism and the administration of the project; and
118 receive and expend, subject to the provisions of this act,
119 revenues provided by this act or from any source.

120 Section 5. In addition to the powers and authority granted
121 under this act, the bureau shall have jurisdiction and authority
122 over all matters relating to the promotion and development of
123 tourism in the city, and the promotion, establishment,
124 development, construction, furnishing and equipping of the
125 project. The bureau shall have the authority to enter into such
126 contracts and agreements as may be necessary to carry out the
127 intent of this act. In carrying out the provisions of this act,
128 the bureau shall adhere to the provisions of the public purchasing
129 laws, public works contracts laws and public bid laws as provided
130 by the laws of the State of Mississippi, except as may be
131 expressly otherwise provided for herein.

132 The bureau is further authorized to receive and expend,

133 subject to the provisions of this act, revenues from any source
134 for the purposes enumerated herein.

135 Section 6. (1) For the purpose of providing funds for the
136 promotion and development of tourism in the city and the
137 promotion, establishment, development, construction, furnishing,
138 equipping, erection, operation and maintenance of the project,
139 there is hereby levied, assessed and shall be collected from every
140 person engaging in or doing business in the city, as provided in
141 subsection (2) of this section, a tax which may be cited as the
142 "recreation and public improvement promotion tax," which shall be
143 in addition to all other taxes now imposed.

144 (2) Such tax shall be in an amount not to exceed two percent
145 (2%) of the gross proceeds of sales of hotels and motels, and not
146 to exceed two percent (2%) of the gross proceeds of restaurants
147 derived from the sale of beer and alcoholic beverages that are
148 sold for consumption on the premises and from the sale of all
149 prepared foods.

150 (3) Persons, firms and corporations liable for the tax
151 imposed herein shall add the amount of tax to the sales price of
152 or gross proceeds of sales from the goods, products and services
153 subject to the tax and, in addition thereto, shall collect insofar
154 as practicable the amount of the tax due by them from the person
155 receiving the services or goods at the time of payment therefor.

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

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

166 The city, in turn, shall remit the funds to the bureau not less
167 than ten (10) days after receiving the funds from the State Tax
168 Commission.

169 (6) The proceeds of the tax shall not be considered by the
170 city as general fund revenues but shall be dedicated solely for
171 the purpose of carrying out the programs and activities of the
172 bureau relating to the promotion and development of tourism and
173 related to the project.

174 (7) Not more than two (2) months following the time that (a)
175 the project has been completed, and (b)(i) either all principal,
176 interest, costs and other expenses for all bonds, notes or other
177 borrowings under this act have been paid and are completely
178 satisfied, or (ii) there exists in any special account established
179 to retire such bonds, notes or other borrowings an amount on
180 deposit which, together with any earnings on investments to accrue
181 to the account, is equal to or greater than the amount necessary
182 to pay such indebtedness, then the city may set the tax being
183 levied hereunder at a rate the avails of which will not exceed the
184 amount necessary to fund the promotion and development of tourism
185 in the city and to pay continuing operation and maintenance costs
186 of the project but in no event to exceed two percent (2%) of the
187 gross proceeds of sales of hotels, motels and restaurants.

188 Section 7. Before the taxes authorized by this act shall be
189 imposed, the governing body of the city shall adopt a resolution
190 declaring its intention to:

191 (a) Levy the tax, setting forth the amount of such tax
192 and establishing the date on which the tax initially shall be
193 levied and collected; and

194 (b) Issue bonds of the city to provide funds to defray
195 the cost of the project, setting forth the estimated amount of
196 bonds to be issued and a general description of the project, if
197 the governing body elects to include provisions for issuance of
198 bonds in such resolution.

199 The resolution shall state the time, date and place upon
200 which the governing body shall take action to authorize and direct
201 levying the tax and, if applicable, the issuance of bonds. The
202 resolution shall be published in a local newspaper at least three
203 (3) times over three (3) consecutive weeks, with the last
204 publication made no less than seven (7) days prior to the date set
205 forth in the resolution on which the governing body would proceed
206 to levy the tax and, if applicable, issue the bonds.

207 If, after giving notice, twenty percent (20%) or fifteen
208 hundred (1500), whichever is less, of the qualified electors of
209 the city shall file a written petition against the levy of such
210 tax or the issuance of the bonds, or both, at or prior to the time
211 and date set forth in the resolution, then such tax shall not be
212 levied and the bonds shall not be issued unless authorized by a
213 majority of the qualified electors of the city voting at an
214 election to be called and held for such purpose or purposes. The
215 election shall be conducted in the same manner as other city
216 elections, and the governing body shall direct the city election
217 commissioners to conduct such election. The effective date of
218 such tax levy shall not be sooner than the first day of the second
219 month from the date the governing body adjudicated no protest to
220 levying the tax or the date of a favorable election on the
221 question of levying the tax, as the case may be. If no protest or
222 an insufficient protest is presented, the bonds may be issued at
223 any time within two (2) years of the date the governing body
224 adjudicates no protest or, in the alternative, within two (2)
225 years of a favorable election on the issuance of the bonds.

226 Before the effective date of the tax levy approved herein,
227 the governing body shall furnish a certified copy of the
228 resolution evidencing such tax levy to the Chairman of the State
229 Tax Commission.

230 Section 8. The bureau shall adopt its first budget of
231 receipts and expenditures to cover the period beginning with the

232 effective date of the tax and ending with the end of the city's
233 fiscal year; and, thereafter, the budget shall be on the same
234 fiscal basis as the budget of the city.

235 Section 9. Accounting for receipts and expenditures of the
236 funds herein described shall be made separate from the accounting
237 of receipts and expenditures of the general fund and any other
238 funds of the city. The records reflecting the receipts and
239 expenditures of the funds prescribed herein shall be audited
240 annually as a part of the annual audit of the city or by
241 independent audit if so determined by the governing body. Such
242 audit shall be made and completed as soon as practicable after the
243 close of the fiscal year, and expenses of such audit may be paid
244 from the funds derived pursuant to Section 6 of this act.

245 Section 10. The governing body of the city may borrow money
246 for the purposes set forth in this act in any one or any
247 combination of the following methods: The city is authorized to
248 issue, from time to time, negotiable bonds of the city for the
249 purposes set forth in Section 5 of this act and to pay for costs
250 of issuing the bonds (including bond insurance, credit
251 enhancements, rating agency fees and legal fees and expenses),
252 which bonds may be secured by all or any portion of the tax
253 revenue generated in Section 6 of this act, along with such other
254 security as may be provided by the city. The city is further
255 authorized to incur debt, borrow funds and/or issue bonds for the
256 purposes set forth in Section 5 herein pursuant to Section 31-25-1
257 et seq., Mississippi Code of 1972. Revenue bonds authorized to be
258 issued or debt incurred under this act shall not be included
259 within the limitation on indebtedness imposed in Section
260 21-33-303, Mississippi Code of 1972.

261 The city is hereby further authorized to issue general
262 obligation bonds of the city pursuant to Section 21-33-301 et
263 seq., Mississippi Code of 1972; provided, however, that upon
264 compliance with the requirements set forth in Section 7 of this

265 act, compliance with Sections 21-33-307 through 21-33-311,
266 Mississippi Code of 1972, shall not be required. General
267 obligation bonds issued pursuant to this paragraph shall be exempt
268 from the debt limit imposed by Section 21-33-303, Mississippi Code
269 of 1972, to the extent that such debt is paid with the tax
270 revenues generated pursuant to Section 6 hereof and not with an ad
271 valorem tax levy.

272 Section 11. If the city elects to issue revenue bonds to
273 defray the cost of the project, such bonds may be serial or term;
274 redeemable, with or without premium, or nonredeemable and
275 registered with registration privileges as to principal and
276 interest; shall bear interest at a rate to be determined pursuant
277 to the sale of the bonds; and shall be payable at such time or
278 times as shall be prescribed in the ordinance authorizing them.
279 The bonds shall mature at such time or times, not exceeding the
280 estimated life of the improvements and in no event longer than
281 thirty (30) years from their date, and at such place or places, as
282 shall be prescribed in the ordinance authorizing their issuance.
283 All bonds and interest thereon issued pursuant to the authority
284 granted in this act shall possess all the qualities of negotiable
285 instruments. The bonds shall be executed in such manner and shall
286 be substantially in the form prescribed in the authorizing
287 ordinance. In case any of the officers whose signatures or
288 countersignatures appear on the bonds shall cease to be such
289 officers before delivery of such bonds, such signatures or
290 countersignatures shall nevertheless be valid and sufficient for
291 all purposes the same as if they had remained in office until such
292 delivery. No bond shall bear more than one (1) rate of interest.

293 Each bond shall bear interest from its date to its stated
294 maturity date at the interest rate specified in the bid. All
295 bonds of the same maturity shall bear the same rate of interest
296 from date to maturity. All interest accruing on such bonds so
297 issued shall be payable semiannually or annually, except that the

298 first interest payment on any such bond may be for any period not
299 exceeding two (2) years.

300 No interest payment shall be evidenced by more than one (1)
301 rate of interest. Such bonds shall be sold in such manner and
302 upon such terms as the governing body of the city shall determine,
303 provided that such bonds shall not bear a greater overall maximum
304 interest rate to maturity than that allowed in Section 75-17-103,
305 Mississippi Code of 1972, and the interest rate on any one (1)
306 interest maturity shall not exceed the maximum interest rate
307 allowed on such bonds. If the bonds are serial bonds, such bonds
308 shall mature annually, and the first maturity date thereof shall
309 not be more than two (2) years from the date of such bonds. Such
310 bonds shall be legal investments for trustees and other
311 fiduciaries, and for savings banks, trust companies and insurance
312 companies organized under the laws of the State of Mississippi.

313 The principal of and interest on such bonds shall be payable
314 solely from the revenues derived from levying the tax described in
315 Section 6 of this act and such other security as may be provided
316 by the city. No bond issued pursuant to the authority granted in
317 this section shall constitute an indebtedness of a municipality
318 within the meaning of any statutory or charter restriction,
319 limitation or provision. It shall be plainly stated on the face
320 of each such bond in substance that the same has been issued
321 pursuant to the authority granted in this act and that the taxing
322 power of the city is not pledged to the payment of such bond or
323 interest thereon, and that such bond and the interest thereon are
324 payable solely from the revenues derived from levying the tax
325 described in Section 6 hereof and such other security as may be
326 provided by the city.

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

330 The city is hereby authorized to employ investment bankers,

331 underwriters, financial advisors, legal counsel, bond counsel and
332 such other required professionals and to pay the fees and expenses
333 incidental thereto.

334 Section 12. This act, without reference to any other statute
335 not referred to herein, shall be deemed to be full and complete
336 authority to carry out the activities set forth herein, including
337 levying the tax authorized pursuant to Section 7 hereof, borrowing
338 money and issuing bonds; and this act shall be construed as an
339 additional and alternate method therefor.

340 Section 13. Any bonds issued under the provisions of this
341 act may be validated in the manner provided by law.

342 Section 14. The governing body of the city is further
343 authorized and empowered to adopt any and all lawful resolutions,
344 orders or ordinances; execute and deliver such agreements,
345 contracts, indentures and certificates; and do and perform any and
346 all other acts and things necessary and requisite to levy the tax,
347 issue the bonds and carry out the purposes of this act.

348 Section 15. The governing authorities of the City of Holly
349 Springs, Mississippi, shall submit this act, immediately upon
350 approval by the Governor, or upon approval by the Legislature
351 subsequent to a veto, to the Attorney General of the United States
352 or to the United States District Court for the District of
353 Columbia in accordance with the provisions of the Voting Rights
354 Act of 1965, as amended and extended.

355 Section 16. This act shall take effect and be in force from
356 and after the date it is effectuated under Section 5 of the Voting
357 Rights Act of 1965, as amended and extended.

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