

By: Johnson (19th)

To: Municipalities;
Finance

SENATE BILL NO. 3039

1 AN ACT TO AUTHORIZE THE GOVERNING AUTHORITY OF ANY
2 MUNICIPALITY TO IMPOSE A SPECIAL SALES TAX OF NOT MORE THAN 1% ON
3 THE GROSS PROCEEDS OF ALL SALES OR THE GROSS INCOME OF BUSINESSES
4 IN THE MUNICIPALITY DERIVED FROM ACTIVITIES TAXED AT THE RATE OF
5 7% OR MORE UNDER THE MISSISSIPPI SALES TAX LAW; TO PROVIDE THAT
6 THE SPECIAL SALES TAX SHALL NOT BE LEVIED UNLESS AUTHORIZED BY AT
7 LEAST THREE-FIFTHS OF THE VOTES CAST AT AN ELECTION CALLED AND
8 HELD FOR SUCH PURPOSE; TO AUTHORIZE A MUNICIPALITY TO INCUR AN
9 INDEBTEDNESS IN AN AMOUNT NOT GREATER THAN AN AMOUNT WHOSE DEBT
10 SERVICE IS CAPABLE OF BEING FUNDED BY THE PROCEEDS OF THE SPECIAL
11 SALES TAX; TO PROVIDE THAT THE SPECIAL SALES TAX REVENUE COLLECTED
12 PURSUANT TO SUCH A TAX SHALL BE USED AND EXPENDED BY THE
13 MUNICIPALITY ONLY TO FUND THE CONSTRUCTION OF CERTAIN
14 TRANSPORTATION INFRASTRUCTURE PROJECTS AND/OR OTHER CAPITAL
15 PROJECTS; TO PROVIDE FOR THE DISCONTINUANCE OF THE SPECIAL SALES
16 TAX UPON COMPLETION OF THE FUNDING OF THE CONSTRUCTION FOR WHICH
17 THE TAX WAS LEVIED; TO AMEND SECTION 21-33-303, MISSISSIPPI CODE
18 OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

20 SECTION 1. The governing authority of any municipality may
21 impose upon all persons as a privilege for engaging or continuing
22 in business or doing business within such municipality, a special
23 sales tax at the rate of not more than one percent (1%) of the
24 gross proceeds of sales or gross income of the business, as the
25 case may be, derived from any of the activities taxed at the rate
26 of seven percent (7%) or more under the Mississippi Sales Tax Law,
27 Section 27-65-1 et seq., as provided hereinafter. The tax levied
28 by this section shall apply to every person making sales, delivery
29 or installations of tangible personal property or services within
30 any municipality which has adopted the levy herein authorized but
31 shall not apply to sales exempted by Sections 27-65-19, 27-65-101,
32 27-65-103, 27-65-105, 27-65-107, 27-65-109 and 27-65-111 of the
33 Mississippi Sales Tax Law.

34 SECTION 2. (1) The governing authority of the municipality

35 shall specify in the resolution ordering the election required by
36 subsection (2) of this section, the specific transportation
37 infrastructure projects or other capital projects, or both, that
38 the revenue collected pursuant to the tax levy may be used and
39 expended to construct.

40 (2) The tax levy authorized herein shall not be made unless
41 authorized by at least three-fifths (3/5) of the votes cast at an
42 election to be called and held for that purpose. Notice of such
43 election shall be given, the election shall be held and the result
44 thereof determined, as far as is practicable, in the same manner
45 as other elections are held in the municipality. At such
46 election, all qualified electors of the municipality may vote.
47 The ballots used at such election shall have printed thereon a
48 brief description of the sales tax, the amount of the sales tax
49 levy, a description of the specific transportation infrastructure
50 projects or other capital projects, or both, that the tax revenue
51 may be used and expended to construct and the words "FOR THE LOCAL
52 SALES TAX" and "AGAINST THE LOCAL SALES TAX" and the voter shall
53 vote by placing a cross (X) or check mark (U) opposite his choice
54 on the proposition. When the results of the election have been
55 canvassed by the election commissioners of the municipality and
56 certified by them to the governing authority, it shall be the duty
57 of the governing authority to determine and adjudicate whether at
58 least three-fifths (3/5) of the qualified electors who voted in
59 such election voted in favor of the tax. If the election results
60 in favor of the levy, the governing authority shall adopt a
61 resolution declaring the levy and collection of the tax provided
62 in Sections 1 through 3 of this act and shall set the first day of
63 the second month following the date of such adoption as the
64 effective date of the tax levy. A certified copy of this
65 resolution together with the result of the election shall be
66 furnished to the State Tax Commission not less than thirty (30)
67 days prior to the effective date of the levy.

68 SECTION 3. (1) The special sales tax authorized by Sections
69 1 through 3 of this act shall be collected by the State Tax
70 Commission, shall be accounted for separately from the amount of
71 sales tax collected for the state in the municipality and shall be
72 paid to the municipality in which collected. Payments to the
73 municipalities shall be made by the State Tax Commission on or
74 before the fifteenth day of the month following the month in which
75 the tax was collected.

76 (2) The proceeds of the special sales tax shall be placed
77 into a separate fund apart from the municipal general fund and any
78 other funds of the municipality, and shall be expended by the
79 municipality solely for the purpose of paying any indebtedness or
80 other obligation the municipality may incur for the transportation
81 infrastructure project or other capital projects, or both,
82 specified in the resolution ordering the election.

83 (3) All provisions of the Mississippi Sales Tax Law
84 applicable to filing of returns, discounts to the taxpayer,
85 remittances to the State Tax Commission, enforced collection,
86 rights of taxpayers, recovery of improper taxes, refunds of
87 overpaid taxes or other provisions of law providing for imposition
88 and collection of the state sales tax shall apply to the special
89 sales tax authorized by Sections 1 through 3 of this act, except
90 where there is a conflict, in which case the provisions of
91 Sections 1 through 3 of this act shall control. Any damages,
92 penalties or interest collected for the nonpayment of taxes
93 imposed hereunder, or for noncompliance with the provisions of
94 Sections 1 through 3 of this act, shall be paid to the
95 municipality in which such damages were collected on the same
96 basis and in the same manner as the tax proceeds. Any overpayment
97 of tax for any reason that has been disbursed to any municipality
98 or any payment of the tax to any municipality in error may be
99 adjusted by the State Tax Commission on any subsequent payment to
100 the municipality involved pursuant to the provisions of the

101 Mississippi Sales Tax Law. The State Tax Commission may, from
102 time to time, make such rules and regulations not inconsistent
103 with Sections 1 through 3 of this act as may be deemed necessary
104 to carry out its provisions, and such rules and regulations shall
105 have the full force and effect of law.

106 (4) The special sales tax shall be discontinued by the
107 governing authority of the municipality on the first day of the
108 month immediately succeeding the date any indebtedness incurred
109 pursuant to this act, including interest, is retired, or in the
110 event the municipality incurs no indebtedness, the first day of
111 the month after all obligations for the construction of the
112 transportation infrastructure projects or other capital projects,
113 or both, have been paid. Any amount remaining in the separate
114 fund containing the proceeds of the special tax not necessary to
115 retire the debt or pay any other obligations, shall be transferred
116 to the municipal general fund.

117 SECTION 4. The governing authority of any municipality that
118 levies a special sales tax pursuant to Sections 1 through 3 of
119 this act may incur indebtedness of the municipality in an
120 aggregate principal amount that is not in excess of an amount
121 whose debt service is capable of being funded by the proceeds of
122 the special sales tax levied pursuant to Sections 1 through 3 of
123 this act. The indebtedness authorized by this section shall not
124 be considered when computing any limitation of indebtedness of the
125 municipality established by law.

126 SECTION 5. Section 21-33-303, Mississippi Code of 1972, is
127 amended as follows:[CRG1]

128 21-33-303. No municipality shall hereafter issue bonds
129 secured by a pledge of its full faith and credit for the purposes
130 authorized by law in an amount which, when added to the then
131 outstanding bonded indebtedness of such municipality, shall exceed
132 either (a) fifteen percent (15%) of the assessed value of the
133 taxable property within such municipality, according to the last

134 completed assessment for taxation, or (b) ten percent (10%) of the
135 assessment upon which taxes were levied for its fiscal year ending
136 September 30, 1984, whichever is greater. In computing such
137 indebtedness, there may be deducted all bonds or other evidences
138 of indebtedness, heretofore or hereafter issued, for school,
139 water, sewerage systems, gas, and light and power purposes and for
140 the construction of special improvements primarily chargeable to
141 the property benefited, or for the purpose of paying the
142 municipality's proportion of any betterment program, a portion of
143 which is primarily chargeable to the property benefited. However,
144 in no case shall any municipality contract any indebtedness which,
145 when added to all of the outstanding general obligation
146 indebtedness, both bonded and floating, shall exceed either (a)
147 twenty percent (20%) of the assessed value of all taxable property
148 within such municipality according to the last completed
149 assessment for taxation or (b) fifteen percent (15%) of the
150 assessment upon which taxes were levied for its fiscal year ending
151 September 30, 1984, whichever is greater. Nothing herein
152 contained shall be construed to apply to contract obligations in
153 any form heretofore or hereafter incurred by any municipality
154 which are subject to annual appropriations therefor, or to bonds
155 heretofore issued by any municipality for school purposes, or to
156 contract obligations in any form heretofore or hereafter incurred
157 by any municipality which are payable exclusively from the
158 revenues of any municipally-owned utility, or to bonds issued by
159 any municipality under the provisions of Sections 57-1-1 through
160 57-1-51, or to any special assessment improvement bonds issued by
161 any municipality under the provisions of Sections 21-41-1 through
162 21-41-53, or to any indebtedness incurred pursuant to Section 4 of
163 Senate Bill No. 3039, 2000 Regular Session.

164 All bonds issued prior to July 1, 1990, pursuant to this
165 chapter by any municipality for the purpose of the constructing,
166 replacing, renovating or improving wastewater collection and

167 treatment facilities in order to comply with an administrative
168 order of the Mississippi Department of Natural Resources issued
169 pursuant to the Federal Water Pollution Control Act and amendments
170 thereto, are hereby exempt from the limitation imposed by this
171 section if the governing body of the municipality adopts an order,
172 resolution or ordinance to the effect that the rates paid by the
173 users of such facilities shall be increased to the extent
174 necessary to provide sufficient funds for the payment of the
175 principal of and interest on such bonds as each respectively
176 becomes due and payable as well as the necessary expenses in
177 connection with the operation and maintenance of such facilities.

178 SECTION 6. The Attorney General of the State of Mississippi
179 shall submit this act, immediately upon approval by the Governor,
180 or upon approval by the Legislature subsequent to a veto, to the
181 Attorney General of the United States or to the United States
182 District Court for the District of Columbia in accordance with the
183 provisions of the Voting Rights Act of 1965, as amended and
184 extended.

185 SECTION 7. This act shall take effect and be in force from
186 and after the date it is effectuated under Section 5 of the Voting
187 Rights Act of 1965, as amended and extended.