

By: Representative Mayo

To: Ways and Means

HOUSE BILL NO. 423

1 AN ACT TO AUTHORIZE THE GOVERNING AUTHORITIES OF A
2 MUNICIPALITY TO IMPOSE A SPECIAL SALES TAX OF NOT MORE THAN ONE
3 PERCENT ON THE GROSS PROCEEDS OF ALL SALES OR THE GROSS INCOME OF
4 BUSINESSES IN THE MUNICIPALITY DERIVED FROM ACTIVITIES TAXED AT
5 THE RATE OF SEVEN PERCENT OR MORE UNDER THE MISSISSIPPI SALES TAX
6 LAW; TO PROVIDE THAT THE SPECIAL SALES TAX SHALL NOT BE LEVIED
7 UNLESS AUTHORIZED BY AT LEAST THREE-FIFTHS OF THE VOTES CAST AT AN
8 ELECTION CALLED AND HELD FOR SUCH PURPOSE; TO PROVIDE THAT THE
9 GOVERNING AUTHORITIES OF A MUNICIPALITY LEVYING A SPECIAL SALES
10 TAX SHALL USE 75% OF THE PROCEEDS OF THE SPECIAL SALES TAX
11 RECEIVED DURING A FISCAL YEAR AS REVENUE IN ITS PROPOSED BUDGET
12 FOR THE NEXT FISCAL YEAR AND SHALL REDUCE THE AD VALOREM TAX
13 REVENUE IN THE PROPOSED BUDGET BY AN AMOUNT EQUAL TO SUCH SPECIAL
14 SALES TAX PROCEEDS; TO PROVIDE THAT 25% OF THE PROCEEDS OF THE
15 SPECIAL TAX RECEIVED DURING A FISCAL YEAR SHALL REMAIN IN A
16 SEPARATE SPECIAL FUND; TO PROVIDE THAT IF THE PROCEEDS OF THE
17 SPECIAL SALES TAX RECEIVED DURING A FISCAL YEAR IS LESS THAN THE
18 AMOUNT OF SUCH PROCEEDS RECEIVED DURING THE PREVIOUS FISCAL YEAR,
19 A MUNICIPALITY MAY USE A PORTION OF THE MONIES REMAINING IN THE
20 SPECIAL FUND TO SUPPLEMENT THE AMOUNT OF SPECIAL SALES TAX
21 PROCEEDS INCLUDED IN THE PROPOSED BUDGET FOR THE NEXT FISCAL YEAR
22 IN ORDER TO PROVIDE THAT THE SUCH AMOUNT IS THE SAME AS FOR THE
23 PREVIOUS FISCAL YEAR; TO PROVIDE THAT A MUNICIPALITY LEVYING A
24 SPECIAL SALES TAX MAY NOT INCREASE AD VALOREM TAX REVENUES FOR THE
25 NEXT FISCAL YEAR BY MORE THAN SEVEN PERCENT UNLESS AUTHORIZED BY
26 AT LEAST THREE-FIFTHS OF THE VOTES CAST AT AN ELECTION CALLED AND
27 HELD FOR SUCH PURPOSE; TO AMEND SECTIONS 27-39-320 AND 27-39-321,
28 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED
29 PURPOSES.

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

31 SECTION 1. The governing authorities of any municipality may
32 impose upon all persons as a privilege for engaging or continuing
33 in business or doing business within such municipality, a special
34 sales tax at the rate of not more than one percent (1%) of the
35 gross proceeds of sales or gross income of the business, as the
36 case may be, derived from any of the activities taxed at the rate
37 of seven percent (7%) or more under the Mississippi Sales Tax Law,
38 Section 27-65-1 et seq., as provided hereinafter. The tax levied
39 by this section shall apply to every person making sales, delivery
40 or installations of tangible personal property or services within



41 any municipality which has adopted the levy herein authorized but
42 shall not apply to sales exempted by Sections 27-65-19, 27-65-101,
43 27-65-103, 27-65-105, 27-65-107, 27-65-109 and 27-65-111.

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

71 SECTION 3. (1) The special sales tax authorized by Sections
72 1 through 3 of this act shall be collected by the State Tax
73 Commission, shall be accounted for separately from the amount of



74 sales tax collected for the state in the municipality and shall be
75 paid to the municipality in which collected. Payments to the
76 municipalities shall be made by the State Tax Commission on or
77 before the fifteenth day of the month following the month in which
78 the tax was collected.

79 (2) (a) The proceeds of the special sales tax shall be
80 placed into a special fund separate and apart from the municipal
81 general fund and any other funds of the municipality, and shall be
82 expended by the municipality as provided in this subsection (2).

83 (b) The governing authorities of a municipality shall
84 use seventy-five percent (75%) of the proceeds of the special
85 sales tax received during a fiscal year as revenue in its proposed
86 budget for the next fiscal year and shall reduce the ad valorem
87 tax revenue in the proposed budget by an amount equal to such
88 special sales tax proceeds. Twenty-five percent (25%) of the
89 proceeds of the special tax received for a fiscal year shall
90 remain in the special fund. However, if the amount of proceeds of
91 the special sales tax received during a fiscal year is less than
92 the amount of such proceeds received during the previous fiscal
93 year, the governing authorities of the municipality may use a
94 portion of the proceeds remaining in the special fund to
95 supplement the amount of sales tax proceeds included in the
96 proposed budget for the next fiscal year in order to provide that
97 such amount is the same as that for the previous fiscal year.

98 (3) All provisions of the Mississippi Sales Tax Law
99 applicable to filing of returns, discounts to the taxpayer,
100 remittances to the State Tax Commission, enforced collection,
101 rights of taxpayers, recovery of improper taxes, refunds of
102 overpaid taxes or other provisions of law providing for imposition
103 and collection of the state sales tax shall apply to the special
104 sales tax authorized by Sections 1 through 3 of this act, except
105 where there is a conflict, in which case the provisions of
106 Sections 1 through 3 of this act shall control. Any damages,



107 penalties or interest collected for the nonpayment of taxes
108 imposed hereunder, or for noncompliance with the provisions of
109 Sections 1 through 3 of this act, shall be paid to the
110 municipality in which such damages were collected on the same
111 basis and in the same manner as the tax proceeds. Any overpayment
112 of tax for any reason that has been disbursed to any municipality
113 or any payment of the tax to any municipality in error may be
114 adjusted by the State Tax Commission on any subsequent payment to
115 the municipality involved pursuant to the provisions of the
116 Mississippi Sales Tax Law. The State Tax Commission may, from
117 time to time, make such rules and regulations not inconsistent
118 with Sections 1 through 3 of this act as may be deemed necessary
119 to carry out the provisions of Sections 1 through 3 of this act,
120 and such rules and regulations shall have the full force and
121 effect of law.

122 SECTION 4. Section 27-39-320, Mississippi Code of 1972, is
123 amended as follows:

124 27-39-320. (1) The Legislature finds and determines that
125 legislation requiring a specific levy or requiring consent of some
126 other governing body to reduce the levy was intended to raise a
127 certain amount of revenue for specific purposes. Upon this
128 determination and notwithstanding the provisions of any statute
129 which requires a definite levy to be made or which requires that a
130 levy may not be reduced except by the consent of some other
131 governing authority, the amount of such levy shall be deemed to be
132 an amount necessary to produce the revenues received in the next
133 preceding year plus, at the option of the taxing authority, an
134 increase not to exceed ten percent (10%) of such revenues.
135 However, in the case of a municipality levying a special sales tax
136 under Sections 1 through 3 of House Bill No. , 2001 Regular
137 Session, the increase may not exceed seven percent (7%) of such
138 revenues.



172 percent (7%) of such receipts. Such total receipts shall be
173 deemed to include the total avails of such levy either collected
174 from the property owner or by reimbursement by the state. The
175 revenues produced from any newly constructed properties or any
176 existing properties added to the tax rolls or any properties
177 previously exempt which were not assessed in the next preceding
178 year may be excluded from the limitation set forth herein.

179 (4) The ten percent (10%) increase limitation prescribed in
180 this section may be increased by an additional amount by the board
181 of supervisors of any county if the aggregate receipts from all
182 county levies to which this section and Sections 27-39-305 and
183 27-39-321 apply do not exceed one hundred ten percent (110%) of
184 the aggregate receipts from all such levies during any one (1) of
185 the immediately preceding three (3) fiscal years, as determined by
186 the board of supervisors.

187 (5) The limitations set forth in this section shall apply to
188 the mandatory tax levied by Section 27-39-329.

189 SECTION 5. Section 27-39-321, Mississippi Code of 1972, is
190 amended as follows:

191 27-39-321. (1) With respect to ad valorem taxes levied for
192 each fiscal year, no political subdivision may levy ad valorem
193 taxes in any fiscal year which would render in total receipts from
194 all levies an amount more than the receipts from that source
195 during any one (1) of the immediately preceding three (3) fiscal
196 years, as determined by the levying governing authority, plus, at
197 the option of the taxing authority, an increase not to exceed ten
198 percent (10%) of such receipts. However, in the case of a
199 municipality levying a special sales tax under Sections 1 through
200 3 of House Bill No. , 2001 Regular Session, the increase may
201 not exceed seven percent (7%) of such receipts. The additional
202 revenue from the ad valorem tax on any newly constructed
203 properties or any existing properties added to the tax rolls or
204 any properties previously exempt, which were not assessed in the



205 next preceding year and cost incurred and paid in the next
206 preceding year in connection with reappraisal may be excluded from
207 the ten percent (10%) increase limitation or seven percent (7%)
208 limitation, as the case may be, set forth herein. Taxes levied
209 for school district purposes under any statute and taxes levied
210 for the maintenance and/or construction of roads and bridges under
211 Section 27-39-305 shall be excluded from the ten percent (10%)
212 increase limitation or seven percent (7%) limitation, as the case
213 may be, set forth herein. Taxes levied for payment of principal
214 of and interest on general obligation bonds issued heretofore or
215 hereafter shall be excluded from * * * increase limitation set
216 forth herein. Any additional millage levied to fund any new
217 program mandated by the Legislature shall be excluded from the
218 limitation for the first year of the levy and included within such
219 limitation in any year thereafter. The limitation imposed under
220 this paragraph shall not apply to those mandatory levies
221 enumerated in Sections 27-39-320 and 27-39-329.

222 (2) The limitation of this section may be increased only as
223 provided in subsection (3) or (4) of this section or when the
224 governing body of a political subdivision has determined the need
225 for additional revenues, adopts a resolution declaring its
226 intention so to do and has held an election on the question of
227 raising the limitation prescribed in this section. The notice
228 calling for an election shall state the purposes for which the
229 additional revenues shall be used, the amount of the tax levy to
230 be imposed for such purposes and period of time for which such tax
231 levy shall be made; however, such tax levy shall not be made for
232 more than five (5) successive years. The limitation may be
233 increased under this subsection only if the proposed increase is
234 approved by a majority of those voting. However, in the case of a
235 municipality levying a special sales tax under Sections 1 through
236 3 of House Bill No. , 2001 Regular Session, the limitation may
237 be increased under this subsection only if the proposed increase



238 is approved by at least three-fifths (3/5) of those voting.
239 Subject to specific provisions of this paragraph to the contrary,
240 the publication of notice and manner of holding the election shall
241 be as prescribed by law for the holding of elections for the
242 issuance of bonds by the political subdivision. However, in the
243 case of a municipality levying a special sales tax under Sections
244 1 through 3 of House Bill No. _____, 2001 Regular Session, the
245 election shall be mandatory. Revenues derived from any taxes
246 levied pursuant to such election shall be excluded from the tax
247 base for the purpose of determining aggregate receipts for which
248 the ten percent (10%) increase limitation or seven percent (7%)
249 limitation, as the case may be, applies.

250 (3) As an alternative to the procedure provided in
251 subsection (2) of this section, the ten percent (10%) increase
252 limitation prescribed in this section may be increased by an
253 additional amount by the board of supervisors of any county
254 without an election thereon if the aggregate receipts from all
255 county levies to which this section and Sections 27-39-305 and
256 27-39-320 apply do not exceed one hundred ten percent (110%) of
257 the aggregate receipts from all such levies during any one (1) of
258 the immediately preceding three (3) fiscal years, as determined by
259 the board of supervisors.

260 (4) As an alternative to the procedure provided in
261 subsections (2) and (3) of this section, the board of supervisors
262 of any county or the governing authorities of any municipality
263 may, without an election thereon, increase the ad valorem tax levy
264 to which this section applies by the greater of:

265 (a) An ad valorem tax levy that does not result in an
266 aggregate levy to which this section applies in excess of twenty
267 (20) mills; or

268 (b) An ad valorem tax levy that is not in excess of any
269 aggregate levy to which this section applies in any one (1) of the
270 immediately preceding ten (10) fiscal years.



271 This subsection (4) shall not apply to a municipality levying a
272 special sales tax under Sections 1 through 3 of House Bill No. ,
273 2001 Regular Session.

274 (5) In any county where there is located a nuclear
275 generating power plant on which a tax is assessed under Section
276 27-35-309(3), the term "total receipts" as used in this section
277 shall be the portion of the "base revenue" as defined in Section
278 27-39-320 which is used for General Fund purposes.

279 (6) If a shortfall occurs in revenues from sources other
280 than ad valorem taxes and oil and gas severance taxes budgeted for
281 the county or municipal general fund during the 1987 fiscal year,
282 then the county or municipality, as the case may be, may levy a
283 special ad valorem tax for the 1988 fiscal year in an amount the
284 avails of which shall not exceed such shortfall; provided,
285 however, that the aggregate receipts from all ad valorem levies
286 for the county or municipal general fund for the 1988 fiscal year
287 shall not exceed the aggregate receipts from this source for the
288 immediately preceding fiscal year plus an increase not to exceed
289 twenty percent (20%).

290 (7) If a shortfall occurs in revenues from oil and gas
291 severance taxes budgeted for the county or municipal general fund
292 during the 1987 fiscal year, then the county or municipality, as
293 the case may be, may levy a special ad valorem tax for the 1988
294 fiscal year in an amount the avails of which shall not exceed such
295 shortfall. The avails of such special ad valorem tax shall not be
296 included within the ten percent (10%) increase limitation. The ad
297 valorem taxes levied to offset the shortfall shall be deemed to be
298 ad valorem tax receipts produced in the 1988 fiscal year for the
299 purposes of determining the limitation on receipts for the
300 succeeding fiscal years.

301 SECTION 6. The Attorney General of the State of Mississippi
302 shall submit this act, immediately upon approval by the Governor,
303 or upon approval by the Legislature subsequent to a veto, to the



304 Attorney General of the United States or to the United States
305 District Court for the District of Columbia in accordance with the
306 provisions of the Voting Rights Act of 1965, as amended and
307 extended.

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

