

By: Senator(s) Harden, Horhn

To: Finance

SENATE BILL NO. 3046

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 in Sections 1 through 4 of
28 this act. The tax levied by this section shall apply to every
29 person making sales, delivery or installations of tangible
30 personal property or services within any municipality which has
31 adopted the levy herein authorized but shall not apply to sales
32 exempted by Sections 27-65-19, 27-65-101, 27-65-103, 27-65-105,
33 27-65-107, 27-65-109 and 27-65-111 of the Mississippi Sales Tax

34 Law. The proceeds of such tax may be utilized for specific
35 transportation infrastructures or other capital projects as
36 provided in Section 1 through 4 of this act.

37 SECTION 2. (1) The governing authority of the municipality
38 shall specify in the resolution ordering the election required by
39 subsection (2) of this section, the specific transportation
40 infrastructure projects or other capital projects, or both, that
41 the revenue collected pursuant to the tax levy may be used and
42 expended to construct.

43 (2) The tax levy authorized herein shall not be made unless
44 authorized by at least three-fifths (3/5) of the votes cast at an
45 election to be called and held for that purpose. Notice of such
46 election shall be given, the election shall be held and the result
47 thereof determined, as far as is practicable, in the same manner
48 as other elections are held in the municipality. At such
49 election, all qualified electors of the municipality may vote.
50 The ballots used at such election shall have printed thereon a
51 brief description of the sales tax, the amount of the sales tax
52 levy, a description of the specific transportation infrastructure
53 projects or other capital projects, or both, that the tax revenue
54 may be used and expended to construct and the words "FOR THE LOCAL
55 SALES TAX" and "AGAINST THE LOCAL SALES TAX" and the voter shall
56 vote by placing a cross (X) or check mark (✓) opposite his choice
57 on the proposition. When the results of the election have been
58 canvassed by the election commissioners of the municipality and
59 certified by them to the governing authority, it shall be the duty
60 of the governing authority to determine and adjudicate whether at
61 least three-fifths (3/5) of the qualified electors who voted in
62 such election voted in favor of the tax. If the election results
63 in favor of the levy, the governing authority shall adopt a
64 resolution declaring the levy and collection of the tax provided
65 in Sections 1 through 4 of this act and shall set the first day of
66 the second month following the date of such adoption as the

67 effective date of the tax levy. A certified copy of this
68 resolution together with the result of the election shall be
69 furnished to the State Tax Commission not less than thirty (30)
70 days prior to the effective date of the levy.

71 SECTION 3. (1) The special sales tax authorized by Sections
72 1 through 4 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) The proceeds of the special sales tax shall be placed
80 into a separate fund apart from the municipal general fund and any
81 other funds of the municipality, and shall be expended by the
82 municipality solely for the purpose of paying any indebtedness or
83 other obligation the municipality may incur for the transportation
84 infrastructure project or other capital projects, or both,
85 specified in the resolution ordering the election.

86 (3) All provisions of the Mississippi Sales Tax Law
87 applicable to filing of returns, discounts to the taxpayer,
88 remittances to the State Tax Commission, enforced collection,
89 rights of taxpayers, recovery of improper taxes, refunds of
90 overpaid taxes or other provisions of law providing for imposition
91 and collection of the state sales tax shall apply to the special
92 sales tax authorized by Sections 1 through 4 of this act, except
93 where there is a conflict, in which case the provisions of
94 Sections 1 through 4 of this act shall control. Any damages,
95 penalties or interest collected for the nonpayment of taxes
96 imposed hereunder, or for noncompliance with the provisions of
97 Sections 1 through 4 of this act, shall be paid to the
98 municipality in which such damages were collected on the same
99 basis and in the same manner as the tax proceeds. Any overpayment

100 of tax for any reason that has been disbursed to any municipality
101 or any payment of the tax to any municipality in error may be
102 adjusted by the State Tax Commission on any subsequent payment to
103 the municipality involved pursuant to the provisions of the
104 Mississippi Sales Tax Law. The State Tax Commission may, from
105 time to time, make such rules and regulations not inconsistent
106 with Sections 1 through 4 of this act as may be deemed necessary
107 to carry out its provisions, and such rules and regulations shall
108 have the full force and effect of law.

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

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

129 SECTION 5. Section 21-33-303, Mississippi Code of 1972, is
130 amended as follows:

131 21-33-303. No municipality shall hereafter issue bonds
132 secured by a pledge of its full faith and credit for the purposes

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

165 21-41-53, or to any indebtedness incurred pursuant to Section 4 of
166 Senate Bill No. 3046, 2001 Regular Session.

167 All bonds issued prior to July 1, 1990, pursuant to this
168 chapter by any municipality for the purpose of the constructing,
169 replacing, renovating or improving wastewater collection and
170 treatment facilities in order to comply with an administrative
171 order of the Mississippi Department of Natural Resources issued
172 pursuant to the Federal Water Pollution Control Act and amendments
173 thereto, are hereby exempt from the limitation imposed by this
174 section if the governing body of the municipality adopts an order,
175 resolution or ordinance to the effect that the rates paid by the
176 users of such facilities shall be increased to the extent
177 necessary to provide sufficient funds for the payment of the
178 principal of and interest on such bonds as each respectively
179 becomes due and payable as well as the necessary expenses in
180 connection with the operation and maintenance of such facilities.

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

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