

By: Representative Ishee

To: Ways and Means

HOUSE BILL NO. 1722

1 AN ACT TO AUTHORIZE THE GOVERNING AUTHORITIES OF ANY
 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 AUTHORIZE A
 9 MUNICIPALITY TO INCUR INDEBTEDNESS IN AN AMOUNT NOT GREATER THAN
 10 AN AMOUNT FOR WHICH DEBT SERVICE IS CAPABLE OF BEING FUNDED BY THE
 11 PROCEEDS OF THE SPECIAL SALES TAX; TO PROVIDE THAT THE SPECIAL
 12 SALES TAX REVENUE COLLECTED PURSUANT TO SUCH A TAX SHALL BE USED
 13 AND EXPENDED BY THE MUNICIPALITY ONLY TO FUND THE CONSTRUCTION OF
 14 CERTAIN TRANSPORTATION INFRASTRUCTURE PROJECTS AND/OR OTHER
 15 CAPITAL PROJECTS; TO PROVIDE FOR THE DISCONTINUANCE OF THE SPECIAL
 16 SALES TAX UPON COMPLETION OF THE FUNDING OF THE CONSTRUCTION FOR
 17 WHICH THE TAX WAS LEVIED; TO AMEND SECTION 21-33-303, MISSISSIPPI
 18 CODE 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 authorities 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 under this section shall apply to every person making sales,
 29 delivery or installations of tangible personal property or
 30 services within any municipality which has adopted the levy herein
 31 authorized but shall not apply to sales exempted by Sections
 32 27-65-19, 27-65-101, 27-65-103, 27-65-105, 27-65-107, 27-65-109
 33 and 27-65-111 of the Mississippi Sales Tax Law.

34 **SECTION 2.** (1) The governing authorities of the
 35 municipality shall specify in the resolution ordering the election



36 required by subsection (2) of this section, the specific
37 transportation infrastructure projects or other capital projects,
38 or both, that the revenue collected pursuant to the tax levy may
39 be used and 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 (✓) 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 authorities, it shall be the
57 duty of such governing authorities to determine and adjudicate
58 whether at least three-fifths (3/5) of the qualified electors who
59 voted in such election voted in favor of the tax. If the election
60 results in favor of the levy, the governing authorities shall
61 adopt a resolution declaring the levy and collection of the tax
62 provided in Sections 1 through 3 of this act and shall set the
63 first day of the second month following the date of such adoption
64 as the 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 before 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 under Sections 1 through 3 of this act, or for
94 noncompliance with the provisions of Sections 1 through 3 of this
95 act, shall be paid to the municipality in which such damages were
96 collected on the same basis and in the same manner as the tax
97 proceeds. Any overpayment of tax for any reason that has been
98 disbursed to any municipality or any payment of the tax to any
99 municipality in error may be adjusted by the State Tax Commission
100 on any subsequent payment to the municipality involved pursuant to



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

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

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

127 **SECTION 5.** Section 21-33-303, Mississippi Code of 1972, is
128 amended as follows:

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



134 taxable property within such municipality, according to the last
135 completed assessment for taxation, or (b) ten percent (10%) of the
136 assessment upon which taxes were levied for its fiscal year ending
137 September 30, 1984, whichever is greater. In computing such
138 indebtedness, there may be deducted all bonds or other evidences
139 of indebtedness, heretofore or hereafter issued, for school,
140 water, sewerage systems, gas, and light and power purposes and for
141 the construction of special improvements primarily chargeable to
142 the property benefited, or for the purpose of paying the
143 municipality's proportion of any betterment program, a portion of
144 which is primarily chargeable to the property benefited. However,
145 in no case shall any municipality contract any indebtedness which,
146 when added to all of the outstanding general obligation
147 indebtedness, both bonded and floating, shall exceed either (a)
148 twenty percent (20%) of the assessed value of all taxable property
149 within such municipality according to the last completed
150 assessment for taxation or (b) fifteen percent (15%) of the
151 assessment upon which taxes were levied for its fiscal year ending
152 September 30, 1984, whichever is greater. Nothing herein
153 contained shall be construed to apply to contract obligations in
154 any form heretofore or hereafter incurred by any municipality
155 which are subject to annual appropriations therefor, or to bonds
156 heretofore issued by any municipality for school purposes, or to
157 contract obligations in any form heretofore or hereafter incurred
158 by any municipality which are payable exclusively from the
159 revenues of any municipally-owned utility, or to bonds issued by
160 any municipality under the provisions of Sections 57-1-1 through
161 57-1-51, or to any special assessment improvement bonds issued by
162 any municipality under the provisions of Sections 21-41-1 through
163 21-41-53, or to any indebtedness incurred under Section 55-23-8,
164 or to any indebtedness incurred under Section 4 of House Bill
165 No. _____, 2002 Regular Session.



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

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

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

