SENATE BILL NO. 3185

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

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

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

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

(2) The tax levy authorized herein shall not be made unless
authorized by at least three-fifths (3/5) of the votes cast at an
election to be called and held for that purpose. Notice of such
election shall be given, the election shall be held and the result
thereof determined, as far as is practicable, in the same manner
as other elections are held in the municipality. At such
election, all qualified electors of the municipality may vote.
The ballots used at such election shall have printed thereon a
brief description of the sales tax, the amount of the sales tax
levy, a description of the specific transportation infrastructure
projects or other capital projects, or both, that the tax revenue
may be used and expended to construct and the words "FOR THE LOCAL
SALES TAX" and "AGAINST THE LOCAL SALES TAX" and the voter shall
vote by placing a cross (X) or check mark (✓) opposite his choice
on the proposition. When the results of the election have been
canvassed by the election commissioners of the municipality and
certified by them to the governing authorities, it shall be the
duty of such governing authorities to determine and adjudicate
whether at least three-fifths (3/5) of the qualified electors who
voted in such election voted in favor of the tax. If the election
results in favor of the levy, the governing authorities shall
adopt a resolution declaring the levy and collection of the tax
provided in Sections 1 through 3 of this act and shall set the
first day of the second month following the date of such adoption
as the effective date of the tax levy. A certified copy of this
resolution together with the result of the election shall be
furnished to the State Tax Commission not less than thirty (30)
days before the effective date of the levy.
SECTION 3. (1) The special sales tax authorized by Sections 1 through 3 of this act shall be collected by the State Tax Commission, shall be accounted for separately from the amount of sales tax collected for the state in the municipality and shall be paid to the municipality in which collected. Payments to the municipalities shall be made by the State Tax Commission on or before the fifteenth day of the month following the month in which the tax was collected.

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

(3) All provisions of the Mississippi Sales Tax Law applicable to filing of returns, discounts to the taxpayer, remittances to the State Tax Commission, enforced collection, rights of taxpayers, recovery of improper taxes, refunds of overpaid taxes or other provisions of law providing for imposition and collection of the state sales tax shall apply to the special sales tax authorized by Sections 1 through 3 of this act, except where there is a conflict, in which case the provisions of Sections 1 through 3 of this act shall control. Any damages, penalties or interest collected for the nonpayment of taxes imposed under Sections 1 through 3 of this act, or for noncompliance with the provisions of Sections 1 through 3 of this act, shall be paid to the municipality in which such damages were collected on the same basis and in the same manner as the tax proceeds. Any overpayment of tax for any reason that has been disbursed to any municipality or any payment of the tax to any municipality in error may be adjusted by the State Tax Commission on any subsequent payment to the municipality involved pursuant to
the provisions of the Mississippi Sales Tax Law. The State Tax
Commission may, from time to time, make such rules and regulations
not inconsistent with Sections 1 through 3 of this act as may be
deemed necessary to carry out the provisions of Sections 1 through
3 of this act, and such rules and regulations shall have the full
force and effect of law.

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

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

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

21-33-303. No municipality shall hereafter issue bonds
secured by a pledge of its full faith and credit for the purposes
authorized by law in an amount which, when added to the then
outstanding bonded indebtedness of such municipality, shall exceed
either (a) fifteen percent (15%) of the assessed value of the
taxable property within such municipality, according to the last completed assessment for taxation, or (b) ten percent (10%) of the assessment upon which taxes were levied for its fiscal year ending September 30, 1984, whichever is greater. In computing such indebtedness, there may be deducted all bonds or other evidences of indebtedness, heretofore or hereafter issued, for school, water, sewerage systems, gas, and light and power purposes and for the construction of special improvements primarily chargeable to the property benefited, or for the purpose of paying the municipality's proportion of any betterment program, a portion of which is primarily chargeable to the property benefited. However, in no case shall any municipality contract any indebtedness which, when added to all of the outstanding general obligation indebtedness, both bonded and floating, shall exceed either (a) twenty percent (20%) of the assessed value of all taxable property within such municipality according to the last completed assessment for taxation or (b) fifteen percent (15%) of the assessment upon which taxes were levied for its fiscal year ending September 30, 1984, whichever is greater. Nothing herein contained shall be construed to apply to contract obligations in any form heretofore or hereafter incurred by any municipality which are subject to annual appropriations therefor, or to bonds heretofore issued by any municipality for school purposes, or to contract obligations in any form heretofore or hereafter incurred by any municipality which are payable exclusively from the revenues of any municipally-owned utility, or to bonds issued by any municipality under the provisions of Sections 57-1-1 through 57-1-51, or to any special assessment improvement bonds issued by any municipality under the provisions of Sections 21-41-1 through 21-41-53, or to any indebtedness incurred under Section 55-23-8, or to any indebtedness incurred under Section 4 of Senate Bill No. 3185, 2002 Regular Session.
All bonds issued prior to July 1, 1990, pursuant to this chapter by any municipality for the purpose of the constructing, replacing, renovating or improving wastewater collection and treatment facilities in order to comply with an administrative order of the Mississippi Department of Natural Resources issued pursuant to the Federal Water Pollution Control Act and amendments thereto, are hereby exempt from the limitation imposed by this section if the governing body of the municipality adopts an order, resolution or ordinance to the effect that the rates paid by the users of such facilities shall be increased to the extent necessary to provide sufficient funds for the payment of the principal of and interest on such bonds as each respectively becomes due and payable as well as the necessary expenses in connection with the operation and maintenance of such facilities.

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

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