

By: Representatives Ellis, Beckett, Chism,  
Reed

To: Local and Private  
Legislation

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1833

1 AN ACT TO AMEND CHAPTER 950, LOCAL AND PRIVATE LAWS OF 1994,  
2 TO REVISE THE DISTRIBUTION OF THE PROCEEDS FROM THE ECONOMIC  
3 DEVELOPMENT, TOURISM AND CONVENTION TAX IMPOSED BY THE CITY OF  
4 STARKVILLE, MISSISSIPPI, ON THE GROSS INCOME OF RESTAURANTS  
5 DERIVED FROM THE SALE OF PREPARED FOOD, ALCOHOLIC AND NONALCOHOLIC  
6 BEVERAGES; TO EXTEND THE REPEAL DATE ON SUCH TAX UNTIL JUNE 30,  
7 2015; AND FOR RELATED PURPOSES.

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

9 SECTION 1. Chapter 950, Local and Private Laws of 1994, is  
10 amended as follows:

11 Section 1. The following words shall have the meaning  
12 ascribed to them in this section unless the context clearly  
13 indicates otherwise:

14 (a) "City" means the City of Starkville, Mississippi.

15 (b) "EDA" means the Oktibbeha County Economic  
16 Development Authority, a governmental subdivision of Oktibbeha  
17 County, created by the Board of Supervisors of Oktibbeha County,  
18 pursuant to Chapter 880, Local and Private Laws of 1984.

19 (c) "Fiscal year" means the period from October 1 to  
20 September 30 of each calendar year.

21 (d) "Governing authority" means the Mayor and Board of  
22 Aldermen of the City of Starkville, Mississippi.

23 (e) "Gross income" means the total revenue generated by  
24 a restaurant from the sale of prepared or prepackaged food,  
25 alcoholic and nonalcoholic beverages.

26 (f) "Restaurant" shall mean and include all places  
27 where prepared food and beverages are sold for consumption either  
28 upon or off the premises and is to include catering activities for  
29 prepared food sold from within the city limits of Starkville,

30 Mississippi. "Restaurant" as defined herein does not include any  
31 school, hospital, convalescence or nursing home or any  
32 restaurant-like facility operated by or in connection therewith  
33 providing food for students, teachers, patients, visitors and  
34 their families.

35 (g) "Starkville Park Commission" shall mean the  
36 commission designated by the Starkville City Board of Aldermen  
37 charged with the duty and responsibility of acquiring,  
38 constructing and managing the various public parks and  
39 recreational facilities located within the City of Starkville,  
40 Mississippi.

41 (h) "VCC" means the Visitors and Convention Council  
42 organized and created by Chapter 854, Local and Private Laws of  
43 1986.

44 Section 2. (1) Subject to provisions of subsection (2) of  
45 this section, the governing authority is authorized, in its  
46 discretion, to provide funds for the purposes provided for in  
47 subsection (3) of this section. The tax authorized under this act  
48 shall be levied, assessed and collected upon the gross revenue of  
49 every restaurant operating within the city and shall be cited as  
50 an "Economic Development, Tourism and Convention Tax" and shall be  
51 in addition to all other taxes now imposed, as hereinafter  
52 provided:

53 (a) The tax shall be a sum equal to two percent (2%) of  
54 the gross income of restaurants derived from retail sales of  
55 prepared food, alcoholic and nonalcoholic beverages.

56 (b) Persons, firms or corporations liable for the tax  
57 imposed shall add the amount of the tax to the sales price of  
58 goods described in subsection (1)(a) of this section and, in  
59 addition, shall collect, insofar as practicable, the amount of the  
60 tax due by them from the person receiving the services or goods at  
61 the time of payment therefor.

62 (c) The tax shall be collected and paid to the State  
63 Tax Commission, on a form to be prescribed by the State Tax  
64 Commission, in the same manner that state sales taxes are  
65 computed, collected and paid; and the full enforcement provisions  
66 and all other provisions of the Mississippi Sales Tax Law shall  
67 apply as necessary to the implementation and administration of  
68 this act.

69 (d) The proceeds of the tax, less three percent (3%) to  
70 be retained by the State Tax Commission to defray the cost of  
71 collections, shall be paid to the City of Starkville, to be placed  
72 into a special fund created apart and separate from any other city  
73 fund, on or before the fifteenth day of the month following the  
74 month during which the tax is collected and shall on or before the  
75 fifteenth day of the following month be delivered to the  
76 appropriate entities as provided by subsection (3) of this  
77 section.

78 (2) Before the tax authorized by this act may be imposed,  
79 the governing authority shall adopt a resolution declaring its  
80 intention to levy the tax and establish the amount of the tax levy  
81 and the date on which the tax initially shall be levied and  
82 collected. This date shall be the first day of a particular  
83 month. The adoption of this tax shall be made by the governing  
84 authority by placing the issue upon a ballot to be determined by  
85 the qualified electors in the City of Starkville. The tax shall  
86 not be levied unless authorized by the vote of a majority of the  
87 qualified electors in the city voting at an election to be called  
88 and held for that purpose. Before the effective date of the tax  
89 levy approved as herein provided, the governing authority shall  
90 furnish to the Chairman of the State Tax Commission a certified  
91 copy of the resolution evidencing such a tax levy.

92 (3) (a) Before the proceeds derived from the tax collected  
93 under this act may be distributed in accordance with paragraph (b)  
94 of this subsection, the governing authorities shall adopt a

95 resolution declaring its intention to so distribute the taxes and  
96 the date on which the taxes initially shall be distributed in  
97 accordance with paragraph (b) of this subsection. The date shall  
98 be the first day of a month but not less than forty-five (45) days  
99 from the date of adoption of the resolution. Notice of the  
100 proposed distributing of the tax shall be published once each week  
101 for at least three (3) consecutive weeks in a newspaper having a  
102 general circulation in such city. The first publication of such  
103 notice shall be made not less than twenty-one (21) days before the  
104 date fixed in the resolution on which the governing authorities  
105 propose to distribute such taxes under paragraph (b), and the last  
106 publication shall be made not more than seven (7) days before such  
107 date. If, within the time of giving notice, ten percent (10%) or  
108 fifteen hundred (1500), whichever is less, of the qualified  
109 electors of the city file a written petition against the  
110 distribution of such taxes in accordance with paragraph (b) of  
111 this subsection, then such distribution shall not occur unless  
112 authorized by a majority of the qualified electors of the city  
113 voting at an election to be called and held for that purpose.  
114 Before the effective date of the tax distribution approved as  
115 herein provided, the governing authorities shall furnish to the  
116 Chairman of the State Tax Commission a certified copy of the  
117 resolution evidencing the authority to distribute the taxes in  
118 accordance with paragraph (b) of this subsection.

119 (b) From and after the effective date of House Bill No.  
120 1833, 2004 Regular Session, the proceeds derived from the tax  
121 collected under this act shall be distributed as follows: Fifteen  
122 percent (15%) of the proceeds derived from the tax collected under  
123 this act shall be distributed by the governing authority to the  
124 EDA to be expended by the EDA solely for economic and community  
125 development. Fifteen percent (15%) of the proceeds derived from  
126 the tax collected under this act shall be distributed by the  
127 governing authority to the VCC to be expended by the VCC solely to

128 enhance community development and for the expansion of tourism and  
129 conventions. Ten percent (10%) of the proceeds derived from the  
130 tax collected under this act shall be retained and expended by the  
131 governing authority solely for economic and community development  
132 projects, initiatives or opportunities. Forty percent (40%) of  
133 the proceeds derived from the tax collected under this act shall  
134 be distributed annually to the Starkville Park Commission to be  
135 expended for park and recreational improvements. Twenty percent  
136 (20%) of the proceeds derived from the tax collected under this  
137 act shall be distributed by the governing authority to Mississippi  
138 State University to be expended by the university solely to  
139 enhance student-related activities.

140 (4) The proceeds of the tax collected under this act shall  
141 not be considered by the city as general fund revenues, but shall  
142 be dedicated solely for the purpose of carrying out those programs  
143 and activities which are designed by the governing authority  
144 through concurrent contracts with the VCC, EDA, \* \* \* Starkville  
145 Park Commission and \* \* \* Mississippi State University \* \* \* or  
146 through interlocal agreements as provided by Section 17-13-17 of  
147 the Mississippi Code of 1972, as amended. \* \* \*

148 Section 3. (1) The governing authority shall retain the  
149 right to approve or disapprove budgets of the agencies funded  
150 under this act with respect to funds approved and disbursed to the  
151 agencies under this act. A detailed budget of funds requested by  
152 the VCC, EDA, the Starkville Park Commission and Mississippi State  
153 University shall be submitted to the city with each year's request  
154 for funds.

155 (2) The governing authority shall retain the right \* \* \* to  
156 prescribe such requirements with respect to budgeting,  
157 establishment of funds, management, record keeping, reporting and  
158 audit as may be necessary for the proper protection of funds  
159 approved and disbursed under this act.

160           Section 4. The books of the entities receiving funds  
161 disbursed under this act shall be audited annually by an  
162 independent certified public accountant or the State Auditor. A  
163 copy of each audit report shall be filed with the governing  
164 authority within fifteen (15) calendar days after receipt thereof  
165 by entities. \* \* \* No expenditure, purchase or transaction shall  
166 be made or authorized in violation of the laws of the State of  
167 Mississippi governing public purchasing, bidding, contracting or  
168 auditing.

169           Section 5. (1) The first budget of receipts and  
170 expenditures under the provisions of this act shall cover the  
171 period beginning with the effective date of the tax and ending  
172 with the end of the fiscal year and, thereafter, the budget shall  
173 be on the fiscal-year basis provided herein.

174           (2) Accounting for receipts and expenditures of the funds  
175 herein described shall be made separately from the accounting of  
176 receipts and expenditures of the general fund and other funds of  
177 the City of Starkville. The record reflecting receipts and  
178 expenditures of the funds described herein shall be audited by an  
179 independent certified public accountant and such accountant shall  
180 make a written report of the audit to the governing authority.  
181 Such audit shall be made and completed as soon as practicable  
182 after the close of the fiscal year and the expenses of such audit  
183 may be paid from funds derived under Section 2 of this act.

184           Section 6. The governing authority of the City of Starkville  
185 is directed to submit this act, immediately upon approval by the  
186 Governor, or upon approval by the Legislature subsequent to a  
187 veto, to the Attorney General of the United States or to the  
188 United States District Court for the District of Columbia in  
189 accordance with the provisions of the Voting Rights Act of 1965,  
190 as amended and extended.

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

194           Section 8. This act shall stand repealed from and after June  
195 30, 2015.

196           **SECTION 2.** This act shall take effect and be in force from  
197 and after its passage.