

By: Representative Montgomery

To: Local and Private
Legislation; Ways and Means

HOUSE BILL NO. 1851
(As Sent to Governor)

1 AN ACT TO AUTHORIZE THE GOVERNING AUTHORITIES OF THE CITY OF
2 PONTOTOC TO LEVY A TAX UPON THE GROSS SALES OF HOTELS, MOTELS AND
3 RESTAURANTS IN AN AMOUNT NOT TO EXCEED TWO PERCENT OF GROSS SALES
4 FOR THE PURPOSE OF PROVIDING FUNDS TO PROMOTE TOURISM AND TO
5 ENCOURAGE RETIRED PERSONS TO REMAIN IN OR RELOCATE TO THE PONTOTOC
6 AREA; TO PROVIDE FOR A PETITION ELECTION ON WHETHER THE TAX MAY BE
7 LEVIED; TO PROVIDE THAT SUCH TAX BE COLLECTED BY THE STATE TAX
8 COMMISSION AND PAID TO THE CITY OF PONTOTOC, MISSISSIPPI; AND FOR
9 RELATED PURPOSES.

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

11 **SECTION 1.** As used in this act, the following terms shall
12 have the following meanings unless a different meaning is clearly
13 indicated by the context in which they are used:

14 (a) "Governing authorities" means the governing
15 authorities of the City of Pontotoc, Mississippi.

16 (b) "Hotel" or "motel" means any establishment engaged
17 in the business of furnishing or providing rooms intended or
18 designed for dwelling, lodging or sleeping purposes to transient
19 guests, where such establishment consists of six (6) or more guest
20 rooms and does not encompass any hospital, convalescent or nursing
21 home or sanitarium, or any hotel-like facility operated by or in
22 connection with a hospital or medical clinic providing rooms
23 exclusively for patients and their families.

24 (c) "Restaurant" means all places where prepared food
25 and beverages are sold for consumption, whether such food is
26 consumed on the premises or not. "Restaurant" as defined herein
27 does not include any school, hospital, convalescent or nursing
28 home, or any restaurant-like facility operated by or in connection
29 with a school, hospital, medical clinic, convalescent or nursing

30 home providing food for students, patients, visitors and their
31 families.

32 **SECTION 2.** (1) For the purpose of providing funds to
33 promote tourism and to encourage retired persons to remain in or
34 relocate to the Pontotoc area, the governing authorities of the
35 City of Pontotoc, Mississippi, are authorized, in their
36 discretion, to levy and collect from the persons hereinafter
37 specified a tax, which shall be in addition to all of the taxes
38 and assessments imposed. The tax shall be imposed on the
39 following persons:

40 (a) A tax upon every person, firm or corporation
41 operating a motel or hotel in the City of Pontotoc, Mississippi,
42 at a rate not to exceed two percent (2%) of the gross proceeds of
43 room rentals for each such hotel or motel.

44 (b) A tax upon every person, firm or corporation
45 operating a restaurant or such other business, where prepared food
46 or drink is sold to the public in the City of Pontotoc,
47 Mississippi, at a rate not to exceed two percent (2%) of the gross
48 proceeds of the sales of such restaurant or business.

49 (2) Persons, firms or corporations liable for the levy
50 imposed under subsection (1) of this section shall add the amount
51 of the levy to the sales price of the rooms and products set out
52 herein and shall collect, insofar as is practicable, the amount of
53 the tax due by them from the person receiving the services or
54 product at the time of payment therefor.

55 (3) Such tax shall be collected by and paid to the
56 Mississippi State Tax Commission on a form prescribed by the State
57 Tax Commission in the manner that state sales taxes are computed,
58 collected and paid; and full enforcement provisions and all other
59 provisions of Chapter 65, Title 27, Mississippi Code of 1972,
60 shall apply as necessary to the implementation and administration
61 of this act.

62 (4) The proceeds of such tax, less three percent (3%)
63 thereof which shall be retained by the State Tax Commission to
64 defray the cost of collection, shall be paid to the governing
65 authorities of the City of Pontotoc, Mississippi, on or before the
66 fifteenth day of the month following the month in which collected.

67 (5) The proceeds of such tax shall not be considered by
68 the City of Pontotoc as general fund revenues but shall be
69 dedicated to and expended solely for the purposes specified in
70 this section.

71 **SECTION 3.** Before the tax authorized by this act may be
72 imposed, the governing authorities shall adopt a resolution
73 declaring their intention to levy the tax, setting forth the
74 amount of such tax and establishing the date on which the tax
75 initially shall be levied and collected. Notice of the proposed
76 tax shall be published once each week for at least three (3)
77 consecutive weeks in a newspaper having a general circulation in
78 the City of Pontotoc. The first publication of the notice shall
79 be made not less than twenty-one (21) days before the date fixed
80 in the resolution on which the tax initially is to be levied and
81 collected, and the last publication of the notice shall be made
82 not more than seven (7) days before such date. If, within the
83 time of giving notice, twenty percent (20%) or fifteen hundred
84 (1500), whichever is less, of the qualified electors of the City
85 of Pontotoc, file a written petition against the levy of such tax,
86 then the tax shall not be levied unless authorized by a sixty
87 percent (60%) majority of the qualified electors of the City of
88 Pontotoc, voting at an election to be called and held for that
89 purpose. At least thirty (30) days before the effective date of
90 the tax, the governing authorities shall furnish to the State Tax
91 Commission a certified copy of the resolution evidencing such tax.

92 **SECTION 4.** Accounting for receipts and expenditures of the
93 funds herein described shall be made separately from the
94 accounting of receipts and expenditures of the general fund and

95 any other funds of the City of Pontotoc, Mississippi. The records
96 reflecting the receipts and expenditures of the funds prescribed
97 herein shall be audited annually by an independent certified
98 public accountant, and the accountant shall make a written report
99 of his audit to the governing authorities. The audit shall be
100 made and completed as soon as practicable after the close of the
101 fiscal year, and expenses of such audit shall be paid from the
102 funds derived in accordance with this act.

103 **SECTION 5.** The provisions of this act shall be repealed from
104 and after July 1, 2008.

105 **SECTION 6.** The governing authorities of the City of Pontotoc
106 are directed to submit this act, immediately upon approval by the
107 Governor, or upon approval by the Legislature subsequent to a
108 veto, to the Attorney General of the United States or to the
109 United States District Court for the District of Columbia in
110 accordance with the provisions of the Voting Rights Act of 1965,
111 as amended and extended.

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