

By: Senator(s) Jackson (11th), Jordan

To: Local and Private;
Finance

SENATE BILL NO. 3112

1 AN ACT TO AMEND CHAPTER 955, LOCAL AND PRIVATE LAWS OF 1996,
2 AS AMENDED, TO INCREASE THE MEMBERSHIP OF THE TUNICA COUNTY
3 TOURISM COMMISSION BY ONE MEMBER AND TO PROVIDE THAT SUCH MEMBER
4 SHALL BE APPOINTED BY THE BOARD OF SUPERVISORS OF TUNICA COUNTY,
5 MISSISSIPPI; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Chapter 955, Local and Private Laws of 1996, as
8 amended by Chapter 952, Local and Private Laws of 1998, as amended
9 by Chapter 1030, Local and Private Laws of 1999, is
10 amended as follows:

11 Section 1. The following terms as used in this act shall
12 have the meanings ascribed in this section unless the context
13 otherwise clearly requires:

14 (a) "Bar" means any bar, tavern or lounge where
15 alcoholic beverages are sold for consumption on the premises;

16 (b) "Casino" means any casino properly licensed by the
17 Mississippi Gaming Commission and operating in Tunica County,
18 Mississippi;

19 (c) "Commission" means the Tunica County Tourism
20 Commission;

21 (d) "Complimentary sales" or "complimentaries" means
22 activities involving the furnishing or providing of rooms for
23 lodging or sleeping, or the furnishing or providing of food or
24 beverage for the public's consumption, or the furnishing or
25 providing of other services, which any casino performs without
26 cost to the recipient at the point of sale;

27 (e) "County" means Tunica County, Mississippi;

28 (f) "Governing authorities" means the Tunica County
29 Board of Supervisors and the Mayor and Board of Aldermen of the
30 Town of Tunica;

31 (g) "Hotel" or "motel" means any establishment engaged
32 in the business of furnishing or providing rooms intended or
33 designed for lodging or sleeping purposes for transient guests,
34 which establishment consists of ten (10) or more guest rooms, and
35 does not encompass any hospital, convalescent or nursing home or
36 sanitarium or any hotel-like facility operated by or in connection
37 with a hospital or medical clinic providing rooms exclusively for
38 patients and their families;

39 (h) "Prepared food" means food prepared on the premises
40 of a restaurant;

41 (i) "Retail sales" means gross cash receipts (the term
42 does not include complimentaries);

43 (j) "Restaurant" means any place, including hotel and
44 motel dining rooms, casinos, cafeterias, cafes and lunch stands,
45 where prepared food and drink are sold for consumption either upon
46 or off the premises, but does not include small grocery stores or
47 service stations where the sale of prepared food constitutes less
48 than fifty percent (50%) of the gross sales;

49 (k) "Town" means the Town of Tunica, Mississippi.

50 Section 2. (1) There is created the Tunica County Tourism
51 Commission, which shall be a public corporation in perpetuity
52 under its corporate name and in that name shall be a body politic
53 and corporate, with power of perpetual succession, for the purpose
54 of supervising and promoting tourism within Tunica County,
55 Mississippi, and other related activities. The Tourism Commission
56 shall be domiciled in Tunica County, Mississippi.

57 (2) The governing authorities are authorized to contract
58 with the commission for the administrative responsibilities of
59 promoting, creating and administering a tourism program and
60 related activities for the county. The governing authorities are

61 authorized to provide funding, personnel and other support to the
62 commission. The amount and type of funding shall be determined by
63 each governing authority acting jointly or independently by
64 resolution of the governing authority duly adopted and spread on
65 their minutes. The governing authorities are authorized to
66 appropriate funds to the commission.

67 Section 3. (1) The commission shall be governed by a board
68 of commissioners composed of seven (7) members appointed as
69 provided in subsection (2) of this section. The commissioners
70 shall serve without compensation. Except as otherwise provided in
71 subsection (2) of this section, the term of each commissioner
72 shall be for a period of four (4) years.

73 (2) (a) (i) Five (5) members of the commission shall be
74 appointed by the Board of Supervisors of Tunica County, two (2) of
75 whom shall be general managers of casinos located in Tunica
76 County.

77 (ii) From and after July 1, 2005, the Board of
78 Supervisors of Tunica County shall appoint one (1) additional
79 member to the commission. The initial term of this additional
80 member shall end at the same time as the term of the other members
81 serving on the commission at the time of his appointment.

82 (b) One (1) member of the commission shall be appointed
83 by the governing authorities of the Town of Tunica.

84 (3) Any vacancy that occurs shall be filled in the same
85 manner as provided for the original appointment and shall be made
86 for the unexpired term. Each member shall serve until a successor
87 is appointed and qualified. If a vacant position is not filled
88 within sixty (60) days of the vacancy, the Tunica County Board of
89 Supervisors shall appoint a member.

90 (4) Any member of the commission who is absent from three
91 (3) or more consecutive meetings or who is absent from fifty
92 percent (50%) or more of all meetings of the board in any given

93 calendar year shall be deemed to have vacated such position,
94 unless otherwise excused by action of the board of commissioners.

95 (5) The commission shall adopt a set of bylaws which may
96 include provisions they deem appropriate but shall include
97 provisions for the following:

98 (a) Procedures and times for its meetings. Unless
99 otherwise provided therein, the board shall follow Robert's Rules
100 of Order at its meetings. The board shall comply with the state
101 Open Meetings Law, Section 25-41-1 et seq., Mississippi Code of
102 1972;

103 (b) The secretary-treasurer making a monthly report to
104 the board concerning the current operational and financial status
105 of the commission and providing a written copy of such report to
106 the governing authorities; and

107 (c) The board annually causing a full and complete
108 examination of all the books and accounts of the commission to be
109 made by an independent, certified public accountant and providing
110 a copy of the examination to the governing authorities and to the
111 Department of Audit of the State of Mississippi.

112 (6) Before entering upon the duties of office, each
113 commissioner shall take and subscribe to the oath of office
114 required by Section 268, Mississippi Constitution of 1890, and
115 shall give bond in a sum of not less than Five Thousand Dollars
116 (\$5,000.00), conditioned upon the faithful performance of his
117 duties, such bond to be made payable to and approved by the
118 chancery clerk of the county. The cost of all such bonds shall be
119 paid by the commission.

120 (7) Within thirty (30) days after the initial appointments
121 of the commissioners have been made, the commission shall meet and
122 elect from among its membership a chairman, vice chairman and
123 secretary-treasurer and shall adopt a seal and such bylaws, rules
124 and regulations as may be necessary to govern the time, place and
125 manner for holding subsequent meetings of the commission and for

126 the conduct of its business, not inconsistent with the provisions
127 of this act. The commission shall record and retain minutes of
128 all meetings. The commission shall require the necessary and
129 appropriate bond for persons authorized or responsible for the
130 funds of the commission. Any action taken by the commission shall
131 be official at the time the action is taken. Actions may be taken
132 by the commission at any regular, special, recessed or adjourned
133 meeting.

134 (8) The commissioners may be reimbursed for actual expenses,
135 including mileage and travel expenses, whether within or without
136 the State of Mississippi, incurred in the performance of their
137 duties, as authorized by Section 25-3-41, Mississippi Code of
138 1972.

139 (9) The commissioners may employ such personnel and take
140 other acts they deem necessary to carry out the purpose of the
141 commission. The commissioners shall set the level of the
142 compensation to be paid to the commission's employees.

143 Section 4. The commission may take any and all acts
144 necessary to effectuate the purposes of this act.

145 Section 5. The carrying out of the purposes of the
146 commission is in all respects for the benefit of the people of the
147 county and is a public purpose, and the commission will be
148 performing an essential governmental function in the exercise of
149 the powers conferred upon it by this act.

150 Section 6. The commission, in addition to the monies that
151 may be received by it from the governing authorities as taxes as
152 provided for in Section 8 of this act, may accept from any public
153 or private agency, or from any individual, grants for or in aid of
154 the construction of any project and may receive and accept
155 contributions, from any source, of money or property or other
156 things of value to be held, used and applied for the purposes for
157 which such grants or contributions may be made.

158 Section 7. With the prior approval of the Board of
159 Supervisors of Tunica County, the commission may (a) apply for and
160 accept grants and loans on behalf of the governing authorities
161 from the State of Mississippi or the United States of America or
162 any agency thereof and (b) contract with any agency of the State
163 of Mississippi or the United States of America for the development
164 of tourism.

165 Section 8. (1) For the purpose of providing funds for the
166 commission to promote conventions and tourism in Tunica County,
167 the Board of Supervisors of Tunica County may levy and assess
168 against and collect from every person, firm, corporation or other
169 entity operating hotels or motels in Tunica County, an assessment,
170 in addition to all other taxes imposed, which may be cited as a
171 "tourism tax," which shall not exceed a sum equal to three percent
172 (3%) of the gross proceeds of sales from room rentals of all
173 hotels and motels in Tunica County, excluding charges for food,
174 beverage, telephone, laundry and other similar charges. The tax
175 shall not be levied upon or collected from gross proceeds of
176 nontaxable rooms, complimentary rooms or room rentals for day
177 meetings that do not serve as overnight sleeping accommodations.

178 (2) The Board of Supervisors of Tunica County also may
179 impose upon persons doing business within Tunica County, in
180 addition to the tax imposed on hotel and motel rooms under
181 subsection (1) of this section, an assessment in addition to all
182 other taxes imposed, which may also be cited as "tourism tax,"
183 which shall not exceed three percent (3%) of the gross proceeds of
184 restaurants and bars derived from retail sales of prepared food or
185 alcoholic beverages (which includes beer and light wine), or both.
186 This tax shall not be levied upon or collected from gross proceeds
187 from complimentary sales of food or beverage.

188 (3) Before the taxes authorized by this section may be
189 imposed, the Board of Supervisors of Tunica County shall adopt a
190 resolution declaring its intention to levy the taxes and

191 establishing the amount of the tax levies and the date on which
192 the taxes initially will be levied and collected. This date shall
193 be the first day of a month but not earlier than the first day of
194 the second month from the date of adoption of the resolution.
195 Notice of the proposed tax levies shall be published once each
196 week for at least three (3) consecutive weeks in a newspaper
197 having a general circulation in the county. The first publication
198 of the notice shall be made not less than twenty-one (21) days
199 before the date fixed in the resolution on which the board of
200 supervisors proposes to levy the taxes, and the last publication
201 of the notice shall be made not more than seven (7) days before
202 that date. If, within the time of giving notice, twenty percent
203 (20%) or fifteen hundred (1500), whichever is less, of the
204 qualified electors of the county file a written petition against
205 the levy of the taxes, then the taxes shall not be levied unless
206 authorized by a majority of the qualified electors of the county,
207 voting at an election to be called and held for that purpose.
208 Before the effective date of the tax levies approved as provided
209 in this section, the board of supervisors shall furnish to the
210 Chairman of the State Tax Commission a certified copy of the
211 resolution evidencing the tax levies.

212 (4) Persons, firms or corporations liable for the taxes
213 under this section shall add the amount of the tax to the sales
214 price and, in addition thereto, shall collect, insofar as
215 practicable, the amount of the tax due by them from the person
216 receiving the services at the time of payment therefor.

217 (5) All such taxes shall be collected by and paid to the
218 State Tax Commission on a form prescribed by the State Tax
219 Commission in the same manner that state sales taxes are computed,
220 collected and paid. The full enforcement provisions and all other
221 provisions of Chapter 65, Title 27, Mississippi Code of 1972,
222 shall apply as necessary to the implementation and administration
223 of this act.

224 (6) The proceeds of such taxes, less three percent (3%) to
225 be retained by the State Tax Commission to defray the costs of
226 collections, shall be paid to Tunica County on or before the
227 fifteenth day of the month following the month in which collected
228 and shall be disbursed by Tunica County to the commission within
229 thirty (30) days of receipt by Tunica County.

230 (7) The proceeds of such taxes shall not be considered by
231 the county as general fund revenue but shall be dedicated to and
232 used by the commission solely for the purpose of carrying out
233 programs and activities designed to attract visitors, to promote
234 conventions and to promote tourism in the county.

235 (8) The commission shall, at least annually, develop a plan
236 to attract visitors, to promote conventions, to promote tourism to
237 and in Tunica County and to provide for the operation of the
238 commission.

239 Section 9. The books of the commission shall be audited
240 annually by an independent certified public accountant, and the
241 accountant shall make a written report of his audit of the taxes
242 collected under Section 8 of this act to the commission and the
243 governing authorities. The audit shall be made and completed as
244 soon as practicable after the close of the fiscal year, and copies
245 of the report of the audit shall be filed with the county within
246 fifteen (15) days after receipt thereof by the commission.

247 Section 10. This act shall be deemed to be full and complete
248 authority for the exercise of the powers herein granted in the
249 county.

250 Section 11. If any one or more sections, clauses, sentences
251 or parts of this act shall for any reason be questioned in any
252 court and adjudged unconstitutional or invalid, such judgment
253 shall not affect, impair or invalidate the remaining provisions of
254 this act but shall be confined in its operations to the specific
255 provisions so held invalid; and inapplicability or invalidity of
256 any such section, clause, provision or part shall not be taken to

257 affect or prejudice in any way the remaining part or parts of this
258 act.

259 Section 12. The Board of Supervisors of Tunica County shall
260 submit this act, immediately upon approval by the Governor, or
261 upon approval by the Legislature subsequent to a veto, to the
262 Attorney General of the United States or to the United States
263 District Court for the District of Columbia in accordance with the
264 provisions of the Voting Rights Act of 1965, as amended and
265 extended.

266 Section 13. This act shall take effect and be in force from
267 and after the date it is effectuated under Section 5 of the Voting
268 Rights Act of 1965, as amended and extended.

269 **SECTION 2.** This act shall take effect and be in force from
270 and after July 1, 2005.