

By: Representatives Rogers (61st), Baker
(74th), Moore, Smith (59th), Weathersby

To: Local and Private
Legislation; Ways and Means

HOUSE BILL NO. 1754

1 AN ACT TO AMEND CHAPTER 951, LOCAL AND PRIVATE LAWS OF 2005,
2 TO EXCLUDE CONCESSION STANDS LOCATED AT ATHLETIC FACILITIES AND
3 THEATERS FROM THE TERM "RESTAURANT" IN THE LAW THAT AUTHORIZES THE
4 GOVERNING AUTHORITIES OF THE CITY OF PEARL, MISSISSIPPI, TO LEVY A
5 TAX UPON THE GROSS PROCEEDS OF SALES OF RESTAURANTS IN THE AREA
6 WITHIN THE CITY OF PEARL KNOWN AS THE WEST PEARL RESTAURANT TAX
7 DISTRICT; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Chapter 951, Local and Private Laws of 2005, is
10 amended as follows:

11 Section 1. As used in this act, the following terms shall
12 have the meanings ascribed to them in this section unless a
13 different meaning is clearly indicated by the context in which
14 they are used:

15 (a) "Governing authorities" means the Mayor and Board
16 of Aldermen of the City of Pearl, Mississippi.

17 (b) "Restaurant" means all places, including hotel and
18 motel dining rooms, cafeterias, cafes, lunch stands, grocery and
19 convenience stores, where prepared food and beverages are sold for
20 consumption, whether such food is consumed on the premises or not.
21 The term "restaurant" does not include any school, hospital,
22 convalescent or nursing home, or any restaurant-like facility
23 operated by or in connection with a school, hospital, medical
24 clinic, convalescent or nursing home providing food for students,
25 patients, visitors or their families. The term "restaurant" shall
26 not include a concession stand.

27 (c) "Prepared food" means food prepared on the premises
28 of a restaurant.

29 (d) "West Pearl Restaurant Tax District" means the
30 following described area located in the City of Pearl, Rankin
31 County, Mississippi:

32 Begin at a point marking the Common Corners of
33 Sections 19, 20, 29 and 30, in Township 5 North,
34 Range 2 East, Rankin County, Mississippi, and then
35 proceed North along the Eastern Boundary Line of
36 Section 19, Township 5 North, Range 2 East, Rankin
37 County, Mississippi, and continuing North along the
38 Eastern Boundary Line of Section 18, Township 5
39 North, Range 2 East, Rankin County, Mississippi,
40 until said line intersects with the Southern
41 Boundary Line of the Right-of-Way of Old Brandon
42 Road, and then proceed Southwesterly along the
43 Southern Boundary Line of the Right-of-Way of Old
44 Brandon Road until said line intersects with the
45 East Right-of-Way line of Valentour Road, then
46 proceed Northerly along the East Right-of-Way line
47 of Valentour Road until it intersects the South
48 Right-of-Way line of United States Highway 80, then
49 proceed Westerly along the South Right-of-Way line
50 of United States Highway 80 until it intersects the
51 Western Boundary Line of the Corporate Limits of
52 the City of Pearl, Mississippi, then proceed
53 Southeasterly along the Corporate Boundary until it
54 intersects with the East Right-of-Way line of
55 United States Highway 49 and the South Right-of-Way
56 line of the Railroad (currently known as the Kansas
57 City Southern Railroad) then proceed Easterly along
58 said Railroad Right-of-Way until reaching the
59 Eastern Boundary Line of Section 30, Township 5
60 North, Range 2 East, Rankin County, Mississippi,

61 then proceed North along said Section line to the
62 Point of Beginning of the Area described herein.

63 (e) "Concession stand" means a location at an athletic
64 facility or theater that sells drinks, snacks, sandwiches and
65 other types of fast foods to walk-up customers and does not offer
66 seating for dining.

67 Section 2. (1) For the purpose of providing funds to meet
68 obligations incurred in inducing a professional baseball team to
69 locate in the City of Pearl, to improve infrastructure in the West
70 Pearl Restaurant Tax District and to promote tourism, economic and
71 community development and recreation in the City of Pearl, the
72 governing authorities are authorized, in their discretion, to levy
73 and collect a tax upon every person, firm or corporation operating
74 a restaurant in the West Pearl Restaurant Tax District, where
75 prepared food and drink is sold to the public, at a rate not to
76 exceed two percent (2%) of the gross proceeds of the sales of such
77 restaurant.

78 (2) Persons, firms or corporations liable for the levy
79 imposed under subsection (1) of this section shall add the amount
80 of the levy to the sales price of the products set out in
81 subsection (1) of this section and shall collect, insofar as is
82 practicable, the amount of the tax due by them from the person
83 receiving the product at the time of payment therefor.

84 (3) Such tax shall be collected by and paid to the State Tax
85 Commission on a form prescribed by the State Tax Commission in the
86 manner that state sales taxes are computed, collected and paid;
87 and full enforcement provisions and all other provisions of
88 Chapter 65, Title 27, Mississippi Code of 1972, shall apply as
89 necessary to the implementation and administration of this act.

90 (4) The proceeds of such tax, less three percent (3%)
91 thereof which shall be retained by the State Tax Commission to
92 defray the cost of collection, shall be paid to the governing

authorities, on or before the fifteenth day of the month in which collected.

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

Section 3. Before any tax authorized under this act may be imposed, the governing authorities shall adopt a resolution declaring their intention to levy the tax, setting forth the amount of the tax to be imposed, the date upon which the tax shall become effective and calling for an election to be held on the question. The date of the election shall be fixed in the resolution. Notice of such intention shall be published once each week for at least three (3) consecutive weeks in a newspaper published or having a general circulation in the City of Pearl, with the first publication of such notice to be made not less than twenty-one (21) days before the date fixed in the resolution for the election, and the last publication to be made not more than seven (7) days before the election. At the election, all qualified electors of the City of Pearl may vote, and the ballots used in such election shall have printed thereon a brief statement of the amount and purposes of the proposed tax levy and the words "FOR THE TAX" and, on a separate line, "AGAINST THE TAX" and the voters shall vote by placing a cross (X) or check (✓) opposite their choice on the proposition. When the results of the election shall have been canvassed and certified, the city may levy the tax if sixty percent (60%) of the qualified electors who vote in the election vote in favor of the tax. At least thirty (30) days before the effective date of the tax provided in this section, the governing authorities shall furnish to the State Tax Commission a certified copy of the resolution evidencing such tax.

Section 4. Accounting for receipts and expenditures of the funds described in this act must be made separately from the accounting of receipts and expenditures of the general fund and

126 any other funds of the City of Pearl. The records reflecting the
127 receipts and expenditures of the funds prescribed in this act
128 shall be audited annually by an independent certified public
129 accountant, and the accountant shall make a written report of his
130 audit to the governing authorities. The audit shall be made and
131 completed as soon as practicable after the close of the fiscal
132 year, and expenses of such audit shall be paid from the funds
133 derived pursuant to this act.

134 Section 5. The governing authorities are directed to submit
135 this act, immediately upon approval by the Governor, or upon
136 approval by the Legislature subsequent to a veto, to the Attorney
137 General of the United States or to the United States District
138 Court for the District of Columbia in accordance with the
139 provisions of the Voting Rights Act of 1965, as amended and
140 extended.

141 Section 6. This act shall take effect and be in force from
142 and after the date it is effectuated under Section 5 of the Voting
143 Rights Act of 1965, as amended and extended.

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