

By: Representatives Eubanks, Oliver

To: Ways and Means

HOUSE BILL NO. 43

1 AN ACT TO CREATE THE LOCAL TAXATION AND TAX EXTENSION
2 AUTHORITY ACT; TO AUTHORIZE THE GOVERNING AUTHORITIES OF CERTAIN
3 COUNTIES AND MUNICIPALITIES TO IMPOSE A SPECIAL SALES TAX OF NOT
4 MORE THAN 1% ON THE GROSS PROCEEDS OF ALL SALES OR THE GROSS
5 INCOME OF BUSINESSES IN THE COUNTY OR MUNICIPALITY DERIVED FROM
6 ACTIVITIES TAXED AT THE RATE OF 7% OR MORE UNDER THE MISSISSIPPI
7 SALES TAX LAW; TO PROVIDE CERTAIN EXEMPTIONS FROM THE SPECIAL
8 SALES TAX AUTHORIZED BY THIS ACT; TO PROVIDE THAT THE SPECIAL
9 SALES TAX SHALL NOT BE LEVIED UNLESS AUTHORIZED BY AT LEAST 3/5 OF
10 THE VOTES CAST AT AN ELECTION CALLED AND HELD FOR SUCH PURPOSE;
11 TO PROVIDE THAT THE ELECTION MUST BE HELD DURING A REGULAR OR
12 GENERAL ELECTION; TO PROVIDE THAT THE SPECIAL SALES TAX SHALL NOT
13 BE EXTENDED UNLESS AUTHORIZED BY AT LEAST 3/5 OF THE VOTES CAST AT
14 AN ELECTION CALLED AND HELD FOR SUCH PURPOSE; TO PROVIDE THE
15 PURPOSES FOR WHICH THE REVENUE COLLECTED FROM THE SPECIAL SALES
16 TAX MAY BE USED AND EXPENDED; TO PROVIDE FOR THE DISCONTINUANCE OF
17 THE SPECIAL SALES TAX UPON COMPLETION OF THE FUNDING OF THE
18 PROJECTS FOR WHICH THE TAX WAS LEVIED; TO AMEND SECTIONS 21-33-303
19 AND 19-9-5, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND
20 FOR RELATED PURPOSES.

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

22 **SECTION 1.** This act shall be known and may be cited as the
23 "Local Taxation and Tax Extension Authority Act."

24 **SECTION 2.** (1) As used in this section, the following terms
25 shall have the meanings ascribed to them in this section unless
26 otherwise clearly indicated by the context in which they are used:



27 (a) "County" means any county in the State of
28 Mississippi.

29 (b) "Hotel" or "motel" means and includes a place of
30 lodging that at any one time will accommodate transient guests on
31 a daily or weekly basis and that is known to the trade as such.
32 Such terms shall not include a place of lodging with ten (10) or
33 less rental units.

34 (c) "Governing authorities" means the board of
35 supervisors of any county or the governing authorities of any
36 municipality, as the case may be.

37 (d) "Municipality" means any municipality in the State
38 of Mississippi. The term "municipality" shall not include a
39 municipality as defined in Section 27-65-241.

40 (e) "Restaurant" means and includes all places where
41 prepared food is sold and whose annual gross proceeds of sales or
42 gross income for the preceding calendar year equals or exceeds One
43 Hundred Thousand Dollars (\$100,000.00). The term "restaurant"
44 shall not include any nonprofit organization that is exempt from
45 federal income taxation under Section 501(c)(3) of the Internal
46 Revenue Code. For the purpose of calculating gross proceeds of
47 sales or gross income, the sales or income of all establishments
48 owned, operated or controlled by the same person, persons or
49 corporation shall be aggregated.

50 (2) (a) Subject to the provisions of this section, the
51 governing authorities of a county or municipality, as the case may



52 be, may impose upon all persons as a privilege for engaging or
53 continuing in business or doing business within such county or
54 municipality, a special sales tax at the rate of not more than one
55 percent (1%) of the gross proceeds of sales or gross income of the
56 business, as the case may be, derived from any of the activities
57 taxed at the rate of seven percent (7%) or more under the
58 Mississippi Sales Tax Law, Section 27-65-1 et seq.

59 (b) The tax levied under this section shall apply to
60 every person making sales, delivery or installations of tangible
61 personal property or services within the county or municipality
62 but shall not apply to:

63 (i) Sales exempted by Sections 27-65-19,
64 27-65-101, 27-65-103, 27-65-105, 27-65-107, 27-65-109 and
65 27-65-111 of the Mississippi Sales Tax Law;

66 (ii) Gross proceeds of sales or gross income of
67 restaurants derived from the sale of food and beverages;

68 (iii) Gross proceeds of sales or gross income of
69 hotels and motels derived from the sale of hotel rooms and motel
70 rooms for lodging purposes;

71 (iv) Retail sales of food for human consumption
72 not purchased with food stamps issued by the United States
73 Department of Agriculture, or other federal agency, but which
74 would be exempt under Section 27-65-111(o) from the taxes imposed
75 by Section 27-65-1 et seq., if the food items were purchased with
76 food stamps; and



77 (v) Gross income of businesses engaging or
78 continuing in the business of TV cable systems, subscription TV
79 services, and other similar activities, including, but not limited
80 to, cable Internet services.

81 (3) (a) Before any tax authorized under this section may be
82 imposed, the governing authorities of the county or municipality
83 shall adopt a resolution declaring its intention to levy the tax,
84 setting forth the amount of the tax to be imposed, the purposes
85 for which the revenue collected pursuant to the tax levy may be
86 used and expended, the date upon which the tax shall become
87 effective, the date upon which the tax shall be repealed, and
88 calling for an election to be held on the question. The date of
89 the election shall be set in the resolution and such election must
90 be held on the same date as any regular or general election for
91 municipal, county, state or federal officers. Notice of the
92 election shall be published once each week for at least three (3)
93 consecutive weeks in a newspaper published or having a general
94 circulation in the county or municipality, as the case may be,
95 with the first publication of the notice to be made not less than
96 twenty-one (21) days before the date fixed in the resolution for
97 the election and the last publication to be made not more than
98 seven (7) days before the election. Notice of the election shall
99 also be published on the county or municipality website, as the
100 case may be, during the same time as the newspaper publication.
101 At the election, all qualified electors of the county or



municipality may vote. The ballots used at the election shall have printed thereon a brief description of the sales tax, the amount of the sales tax levy, a description of the purposes for which the tax revenue may be used and expended 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 county or 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 the election voted in favor of the tax. If at least three-fifths (3/5) of the qualified electors who voted in the election voted in favor of the tax, the governing authorities of the county or municipality shall adopt a resolution declaring the levy and collection of the tax provided in this section 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 Department of Revenue not less than thirty (30) days before the effective date of the levy.

(b) Before any tax authorized under this section may be extended, the governing authorities of the county or municipality shall adopt a resolution declaring its intention to extend the tax, setting forth the amount of the tax to be extended, the



127 purposes for which the revenue collected pursuant to the tax
128 extension may be used and expended, the date upon which the tax
129 extension shall become effective, the date upon which the tax
130 extension shall be repealed, and calling for an election to be
131 held on the question of the extension. The date of the election
132 for the extension shall be set in the resolution and such election
133 must be held on the same date as any regular or general election
134 for municipal, county, state or federal officers. Notice of the
135 election shall be published once each week for at least three (3)
136 consecutive weeks in a newspaper published or having a general
137 circulation in the county or municipality, as the case may be,
138 with the first publication of the notice to be made not less than
139 twenty-one (21) days before the date fixed in the resolution for
140 the election and the last publication to be made not more than
141 seven (7) days before the election. Notice of the election shall
142 also be published on the county or municipality website, as the
143 case may be, during the same time as the newspaper publication.
144 At the election, all qualified electors of the county or
145 municipality may vote. The ballots used at the election shall
146 have printed thereon a brief description of the sales tax
147 extension, the amount of the sales tax extension, a description of
148 the purposes for which the tax revenue from the extension may be
149 used and expended and the words "FOR THE EXTENSION OF THE LOCAL
150 SALES TAX" and "AGAINST THE EXTENSION OF THE LOCAL SALES TAX" and
151 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 county or 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 the election voted in favor of the tax extension. If at least three-fifths (3/5) of the qualified electors who voted in the election voted in favor of the tax extension, the governing authorities shall adopt a resolution declaring the extension of the tax and collection of the tax provided in this section and shall set the first day of the second month following the date of such adoption as the effective date of the tax extension. A certified copy of this resolution, together with the result of the election, shall be furnished to the Department of Revenue not less than thirty (30) days before the effective date of the extension.

(4) Upon approval of the expenditure by the Mississippi Development Authority pursuant to subsection (6) of this section, the revenue collected pursuant to the tax levy imposed under this section may be expended to pay the costs reasonably related to (a) road and street repair, reconstruction and resurfacing projects based on traffic patterns, need and usage, as well as costs for easement acquisition, right-of-way acquisition, planning and design and professional services related to such projects and (b) construction, repair and reconstruction of water, sewer and



177 drainage projects as well as costs for easement acquisition,
178 right-of-way acquisition, planning and design and professional
179 services related to such projects. The initial construction of
180 any project for which revenue collected pursuant to the special
181 tax is expended shall not exceed four (4) years, and the revenue
182 may not be used for the future maintenance of any such projects
183 for which the revenue was expended for the initial construction.

184 (5) (a) The special sales tax authorized by this section
185 shall be collected by the Department of Revenue, shall be
186 accounted for separately from the amount of sales tax collected
187 for the state in the county or municipality and shall be paid to
188 the county or municipality. The Department of Revenue may retain
189 one percent (1%) of the proceeds of such tax for the purpose of
190 defraying the costs incurred by the department in the collection
191 of the tax. Payments to the county or municipality shall be made
192 by the Department of Revenue on or before the fifteenth day of the
193 month following the month in which the tax was collected.

194 (b) The proceeds of the special sales tax shall be
195 placed into a special county fund or special municipal fund apart
196 from the county or municipal general fund, as the case may be, and
197 any other funds of the county or municipality, and shall be
198 expended by the county or municipality solely for the purposes
199 authorized in subsection (4) of this section. The records
200 reflecting the receipts and expenditures of the revenue from the
201 special sales tax shall be audited annually by an independent



202 certified public accountant. The accountant shall make a report
203 of his findings to the governing authorities of the county or
204 municipality and file a copy of his report with the Secretary of
205 the Senate and the Clerk of the House of Representatives. The
206 audit shall be made and completed as soon as practical after the
207 close of the fiscal year of the county or municipality, and
208 expenses of the audit shall be paid from the funds derived by the
209 county or municipality pursuant to this section.

210 (c) All provisions of the Mississippi Sales Tax Law
211 applicable to filing of returns, discounts to the taxpayer,
212 remittances to the Department of Revenue, enforced collection,
213 rights of taxpayers, recovery of improper taxes, refunds of
214 overpaid taxes or other provisions of law providing for imposition
215 and collection of the state sales tax shall apply to the special
216 sales tax authorized by this section, except where there is a
217 conflict, in which case the provisions of this section shall
218 control. Any damages, penalties or interest collected for the
219 nonpayment of taxes imposed under this section, or for
220 noncompliance with the provisions of this section, shall be paid
221 to the county or municipality on the same basis and in the same
222 manner as the tax proceeds. Any overpayment of tax for any reason
223 that has been disbursed to a county or municipality or any payment
224 of the tax to a county or municipality in error may be adjusted by
225 the Department of Revenue on any subsequent payment to the county
226 or municipality pursuant to the provisions of the Mississippi



227 Sales Tax Law. The Department of Revenue may, from time to time,
228 make such rules and regulations not inconsistent with this section
229 as may be deemed necessary to carry out the provisions of this
230 section, and such rules and regulations shall have the full force
231 and effect of law.

232 (6) (a) Any county or municipality that levies the special
233 sales tax authorized under this section shall establish a plan for
234 the project or projects for which the revenue collected from the
235 special tax may be expended and for the expenditure of revenue.
236 The plan shall include at least the following:

237 (i) A description of the project or projects for
238 which the revenue will be expended, including the projected cost
239 of the project or projects;

240 (ii) The projected starting date and completion
241 date for the project or projects;

242 (iii) A description of any funds from other
243 sources that may be available to the county or municipality to
244 assist with paying the costs of the project or projects; and

245 (iv) Any other information required by the
246 Mississippi Development Authority.

247 (b) The county or municipality shall submit a copy of
248 the plan to the Mississippi Development Authority. No expenditure
249 of revenue collected from the special tax authorized by this
250 section may be made by the county or municipality without the



251 approval of the MDA as being consistent with the provisions of
252 this section.

253 (c) The Mississippi Development Authority shall have
254 all powers necessary to implement and administer the provisions of
255 this section, and the Mississippi Development Authority shall
256 promulgate rules and regulations, in accordance with the
257 Mississippi Administrative Procedures Law, necessary for the
258 implementation of this section.

259 (7) Any special tax levied by a county or municipality under
260 this section shall be discontinued by the governing authorities of
261 the county or municipality on the first day of the month
262 immediately succeeding the date of the completion of the project
263 or projects for which the tax was authorized and the retirement
264 and payment in full of any indebtedness or other obligations if
265 incurred by the county or municipality for the project or
266 projects, as determined by the Mississippi Development Authority.

267 (8) Until the repeal of a special sales tax authorized
268 under the authority of a local and private law of the State of
269 Mississippi, the governing authorities of a county or municipality
270 may not impose a special sales tax under this section on sales
271 that are subject to any tax levied and collected (before the date
272 a resolution is adopted under subsection (3) of this section)
273 under the authority of a local and private law, which tax is
274 collected and paid to the Department of Revenue in the same or
275 similar manner that state sales taxes are collected and paid.



276 (9) If a municipality imposing a special sales tax under
277 this section contracts its corporate boundaries, the special sales
278 tax shall continue to be imposed in the area that was in the
279 corporate boundaries of the municipality before the contraction of
280 such boundaries.

281 (10) The governing authorities of any county or municipality
282 that levies a special sales tax pursuant to this section may incur
283 indebtedness of the county or municipality in an aggregate
284 principal amount that is not in excess of an amount for which debt
285 service is capable of being funded by the proceeds of the special
286 sales tax levied pursuant to this section. The indebtedness
287 authorized by this subsection shall not be considered when
288 computing any limitation of indebtedness of the county or
289 municipality established by law.

290 (11) It is the intent of the Legislature that the amount of
291 state general funds appropriated to the Department of Revenue
292 shall not be reduced because of funds collected by the department
293 under this act.

294 **SECTION 3.** Section 21-33-303, Mississippi Code of 1972, is
295 amended as follows:

296 21-33-303. No municipality shall hereafter issue bonds
297 secured by a pledge of its full faith and credit for the purposes
298 authorized by law in an amount which, when added to the then
299 outstanding bonded indebtedness of such municipality, shall exceed
300 either (a) fifteen percent (15%) of the assessed value of the



301 taxable property within such municipality, according to the last
302 completed assessment for taxation, or (b) ten percent (10%) of the
303 assessment upon which taxes were levied for its fiscal year ending
304 September 30, 1984, whichever is greater. In computing such
305 indebtedness, there may be deducted all bonds or other evidences
306 of indebtedness, heretofore or hereafter issued, for school,
307 water, sewerage systems, gas, and light and power purposes and for
308 the construction of special improvements primarily chargeable to
309 the property benefited, or for the purpose of paying the
310 municipality's proportion of any betterment program, a portion of
311 which is primarily chargeable to the property benefited. However,
312 in no case shall any municipality contract any indebtedness which,
313 when added to all of the outstanding general obligation
314 indebtedness, both bonded and floating, shall exceed either (a)
315 twenty percent (20%) of the assessed value of all taxable property
316 within such municipality according to the last completed
317 assessment for taxation or (b) fifteen percent (15%) of the
318 assessment upon which taxes were levied for its fiscal year ending
319 September 30, 1984, whichever is greater. Nothing herein
320 contained shall be construed to apply to contract obligations in
321 any form heretofore or hereafter incurred by any municipality
322 which are subject to annual appropriations therefor, or to bonds
323 heretofore issued by any municipality for school purposes, or to
324 contract obligations in any form heretofore or hereafter incurred
325 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 2 of this act.

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 4. Section 19-9-5, Mississippi Code of 1972, is amended as follows:

19-9-5. No county 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 bonds



of such county, shall exceed either (a) fifteen percent (15%) of the assessed value of the taxable property within such county 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.

However, any county in the state which shall have experienced washed-out or collapsed bridges on the public roads of the county for any cause or reason may hereafter issue bonds for bridge purposes as now authorized by law in an amount which, when added to the then outstanding general obligation bonds of such county, shall not exceed either (a) twenty percent (20%) of the assessed value of the taxable property within such county 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.

Provided further, in computing such indebtedness, there may be deducted all bonds or other evidences of indebtedness heretofore or hereafter issued, for the construction of hospitals, ports or other capital improvements which are payable primarily from the net revenue to be generated from such hospital, port or other capital improvement, which revenue shall be pledged to the retirement of such bonds or other evidences of indebtedness, together with the full faith and credit of the county. However, in no case shall any county contract any indebtedness payable, in



whole or in part, from proceeds of ad valorem taxes 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 county 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 county which are subject to annual appropriations therefor, or to bonds heretofore or hereafter issued by any county for school purposes, or to bonds issued by any county under the provisions of Sections 57-1-1 through 57-1-51, or to any indebtedness incurred under Section 55-23-8, or to bonds issued under Section 57-75-37, or to any other indebtedness incurred under 57-75-37(4) or to any indebtedness incurred under Section 2 of this act.

SECTION 5. This act shall take effect and be in force from and after July 1, 2018.

