

By: Representatives McNeal, Sykes

To: Ways and Means

HOUSE BILL NO. 701

1 AN ACT TO AUTHORIZE THE GOVERNING AUTHORITIES OF ANY
2 MUNICIPALITY TO IMPOSE A SPECIAL TAX NOT TO EXCEED 1% ON THE GROSS
3 PROCEEDS OF ALL SALES OR GROSS INCOME ON BUSINESSES IN THE
4 MUNICIPALITY DERIVED FROM ACTIVITIES TAXED AT THE RATE OF 7% OR
5 MORE UNDER THE MISSISSIPPI SALES TAX LAW OR SUCH MUNICIPALITY MAY
6 IMPOSE A TOURISM TAX IN AN AMOUNT NOT TO EXCEED 2% UPON THE GROSS
7 PROCEEDS DERIVED FROM ROOM RENTALS AND THE SALES OF RESTAURANTS;
8 TO PROVIDE THAT THE SPECIAL SALES TAX SHALL NOT BE LEVIED UNLESS
9 AUTHORIZED BY AT LEAST THREE-FIFTHS OF THE VOTES CAST AT A
10 REFERENDUM CALLED AND HELD FOR SUCH PURPOSE; TO AUTHORIZE A
11 MUNICIPALITY TO INCUR INDEBTEDNESS IN AN AMOUNT NOT GREATER THAN
12 AN AMOUNT FOR WHICH DEBT SERVICE IS CAPABLE OF BEING FUNDED BY THE
13 PROCEEDS OF THE SPECIAL SALES TAX; TO PROVIDE THAT THE SPECIAL
14 SALES TAX REVENUE COLLECTED PURSUANT TO SUCH A TAX SHALL BE USED
15 AND EXPENDED BY THE MUNICIPALITY TO FUND CAPITAL PROJECTS AND/OR
16 TOURISM; TO PROVIDE FOR THE DISCONTINUANCE OF THE SPECIAL SALES
17 TAX UPON COMPLETION OF THE FUNDING OF THE PROJECTS FOR WHICH THE
18 TAX WAS LEVIED; TO AMEND SECTION 21-33-303, MISSISSIPPI CODE OF
19 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

21 **SECTION 1.** (1) (a) Subject to the provisions of this
22 section, the governing authorities of any municipality may impose
23 upon all persons as a privilege for engaging or continuing in
24 business or doing business within such municipality, a special
25 sales tax at the rate of not more than one percent (1%) of the
26 gross proceeds of sales or gross income of the business, as the



27 case may be, derived from any of the activities taxed at the rate
28 of seven percent (7%) or more under the Mississippi Sales Tax Law,
29 Section 27-65-1 et seq. The tax levied under this section shall
30 apply to every person making sales, delivery or installations of
31 tangible personal property or services within any municipality
32 which has adopted the levy authorized in this section but shall
33 not apply to sales exempted by Sections 27-65-19, 27-65-101,
34 27-65-103, 27-65-105, 27-65-107, 27-65-109 and 27-65-111 of the
35 Mississippi Sales Tax Law.

36 (b) Subject to the provisions of this section, the
37 tourism and capital projects for which the revenue collected
38 pursuant to the tax levy imposed under this subsection may be used
39 and expended shall include, but not be limited to, the following:

- 40 (i) Recreational complexes;
- 41 (ii) Senior centers;
- 42 (iii) Community centers;
- 43 (iv) Auditoriums;
- 44 (v) Libraries;
- 45 (vi) Parks;
- 46 (vii) Major street projects;
- 47 (viii) Water and sewage systems;
- 48 (ix) Gas lines; and
- 49 (x) Multipurpose buildings.



50 Any tax levied under paragraph (a) of this subsection shall
51 be utilized solely for tourism and capital projects as prescribed
52 under this subsection.

53 (c) In lieu of the tax authorized under paragraph (a)
54 of this subsection, the governing authorities of any municipality
55 may levy a tax upon every person, firm or corporation operating a
56 hotel or motel or restaurant, at a rate not to exceed two percent
57 (2%) of the gross proceeds of room rentals for each hotel or motel
58 or of the gross proceeds of the sales of the restaurant. As used
59 under this paragraph, the following terms shall have the following
60 meanings:

61 (i) "Hotel" or "motel" means any establishment
62 engaged in the business of furnishing or providing rooms intended
63 or designed for dwelling, lodging or sleeping purposes to
64 transient guests, where the establishment consists of six (6) or
65 more guest rooms. The term "hotel" or "motel" does not include
66 any hospital, convalescent or nursing home or sanitarium, or any
67 hotel-like facility operated by or in connection with a hospital
68 or medical clinic providing rooms exclusively for patients and
69 their families; and

70 (ii) "Restaurant" means all places where prepared
71 food and beverages are sold for consumption, whether such food is
72 sold for consumption on the premises or not. The term
73 "restaurant" does not include any school, hospital, convalescent
74 or nursing home, or any restaurant-like facility operated by or in



75 connection with a school, hospital, medical clinic, convalescent
76 or nursing home providing food for students, patients, visitors or
77 their families.

78 Any tax levied under this paragraph (c) shall be utilized
79 solely for the purpose of promoting tourism, parks and recreation
80 projects within the municipality.

81 (2) Before any tax authorized under this section may be
82 imposed, the governing authorities of the municipality shall adopt
83 a resolution declaring its intention to levy the tax, setting
84 forth the amount of the tax to be imposed, the projects for which
85 the revenue collected pursuant to the tax levy may be used and
86 expended, the date upon which the tax shall become effective and
87 calling for a referendum to be held on the question. The date of
88 the referendum shall be set in the resolution. Notice of the
89 referendum shall be published once each week for at least three

90 (3) consecutive weeks in a newspaper published or having a general
91 circulation in the municipality, with the first publication of the
92 notice to be made not less than twenty-one (21) days before the
93 date fixed in the resolution for the referendum and the last
94 publication to be made not more than five (5) days before the
95 referendum. At the referendum, all qualified electors of the
96 municipality may vote. The ballots used at the referendum shall
97 have printed thereon a brief description of the sales tax, the
98 amount of the sales tax levy, a description of the projects for
99 which the tax revenue may be used and expended and the words "FOR



100 THE LOCAL SALES TAX" and "AGAINST THE LOCAL SALES TAX" and the
101 voter shall vote by placing a cross (X) or check mark (✓) opposite
102 his choice on the proposition. When the results of the referendum
103 have been canvassed by the election commissioners of the
104 municipality and certified by them to the governing authorities,
105 it shall be the duty of the governing authorities to determine and
106 adjudicate whether at least three-fifths (3/5) of the qualified
107 electors who voted in the referendum voted in favor of the tax.
108 If at least three-fifths (3/5) of the qualified electors who voted
109 in the referendum voted in favor of the tax, the governing
110 authorities shall adopt a resolution declaring the levy and
111 collection of the tax provided in this section and shall set the
112 first day of the second month following the date of such adoption
113 as the effective date of the tax levy. A certified copy of this
114 resolution, together with the result of the referendum, shall be
115 furnished to the Department of Revenue not less than thirty (30)
116 days before the effective date of the levy.

117 (3) (a) Upon approval of the expenditure by the Mississippi
118 Development Authority, the revenue collected pursuant to the tax
119 levy imposed under this section may be used and expended to pay
120 the costs reasonably related to tourism, parks and recreation
121 projects or tourism and capital projects. The initial
122 construction of any project for which revenue collected pursuant
123 to the special tax is used and expended shall not exceed four (4)
124 years, and the revenue may not be expended for the future



125 maintenance of any such projects for which the revenue was used
126 and expended for the initial construction.

127 (b) A municipality that levies the special sales tax
128 authorized under this section shall establish a plan for the
129 project or projects for which the revenue collected from the
130 special tax may be used and expended and for the expenditure of
131 revenue. The plan shall include at least the following:

132 (i) A description of the project or projects for
133 which the revenue will be expended, including the projected cost
134 of the project or projects;

135 (ii) The projected starting date and completion
136 date for the project or projects;

137 (iii) A description of any funds from other
138 sources that may be available to the municipality to assist with
139 paying the costs of the project or projects; and

140 (iv) Any other information required by the
141 Mississippi Development Authority.

142 (c) A municipality shall submit a copy of the plan to
143 the Mississippi Development Authority. No expenditure of revenue
144 collected from the special tax authorized by this section may be
145 made by the municipality without the approval of the Mississippi
146 Development Authority as being consistent with the provisions of
147 this section.

148 (d) The Mississippi Development Authority shall have
149 all powers necessary to implement and administer the provisions of



150 this section, and the Mississippi Development Authority shall
151 promulgate rules and regulations, in accordance with the
152 Mississippi Administrative Procedures Law, necessary for the
153 implementation of this section.

154 (4) (a) The special sales tax authorized by this section
155 shall be collected by the Department of Revenue, shall be
156 accounted for separately from the amount of sales tax collected
157 for the state in the municipality and shall be paid to the
158 municipality in which collected. The Department of Revenue may
159 retain three percent (3%) of the proceeds of the tax for the
160 purpose of defraying the costs incurred by the department in the
161 collection of the tax. Payments to the municipality shall be made
162 by the Department of Revenue on or before the fifteenth day of the
163 month following the month in which the tax was collected.

164 (b) The proceeds of the special sales tax shall be
165 placed into a separate fund apart from the municipal general fund
166 and any other funds of the municipality, and shall be expended by
167 the municipality solely for the purpose of paying any indebtedness
168 or other obligation or cost incurred or that may be incurred by
169 the municipality for the tourism, parks and recreation projects or
170 capital projects specified in the resolution ordering the
171 referendum.

172 (c) All provisions of the Mississippi Sales Tax Law
173 applicable to filing of returns, discounts to the taxpayer,
174 remittances to the Department of Revenue, enforced collection,



175 rights of taxpayers, recovery of improper taxes, refunds of
176 overpaid taxes or other provisions of law providing for imposition
177 and collection of the state sales tax shall apply to the special
178 sales tax authorized by this section, except where there is a
179 conflict, in which case the provisions of this section shall
180 control. Any damages, penalties or interest collected for the
181 nonpayment of taxes imposed under this section, or for
182 noncompliance with the provisions of this section, shall be paid
183 to the municipality in which such damages, penalties or interest
184 were collected on the same basis and in the same manner as the tax
185 proceeds. Any overpayment of tax for any reason that has been
186 disbursed to any municipality or any payment of the tax to any
187 municipality in error may be adjusted by the Department of Revenue
188 on any subsequent payment to the municipality involved pursuant to
189 the provisions of the Mississippi Sales Tax Law. The Department
190 of Revenue may, from time to time, make such rules and regulations
191 not inconsistent with this section as may be deemed necessary to
192 carry out the provisions of this section, and such rules and
193 regulations shall have the full force and effect of law.

194 (d) Any special tax levied by a municipality under this
195 section shall be discontinued by the governing authorities of the
196 municipality on the first day of the month immediately succeeding
197 the date of the completion of the project or projects for which
198 the tax was authorized and the retirement and payment in full of
199 any indebtedness or other obligations if incurred by the



200 municipality for the project or projects, as determined by the
201 Mississippi Development Authority. However, any tax levied by a
202 municipality under this section may not continue to be levied more
203 than ten (10) years after the date the tax levy commences unless
204 the continued levy of the tax is approved at an election for that
205 purpose that is called and held as nearly as is practicable in the
206 manner provided in subsection (2) of this section, except that
207 passage of such continued levy shall require a majority of
208 qualified electors of the municipality. Any amount remaining in
209 the separate fund containing the proceeds of the special sales tax
210 after the discontinuance of the tax shall be transferred to the
211 municipal general fund.

212 (e) Until the repeal of a special sales tax authorized
213 under the authority of a local and private law of the State of
214 Mississippi, the governing authorities of a municipality may not
215 impose a special sales tax under this section on sales that are
216 subject to any tax levied and collected (before the date a
217 resolution is adopted under subsection (2) of this section) under
218 the authority of a local and private law, which tax is collected
219 and paid to the Department of Revenue in the same or similar
220 manner that state sales taxes are collected and paid.

221 (f) If a municipality imposing a special sales tax
222 under this section contracts its corporate boundaries, the special
223 sales tax shall continue to be imposed in the area that was in the



224 corporate boundaries of the municipality before the contraction of
225 such boundaries.

226 (5) The governing authorities of any municipality that
227 levies a special sales tax pursuant to this section may incur
228 indebtedness of the municipality in an aggregate principal amount
229 that is not in excess of an amount for which debt service is
230 capable of being funded by the proceeds of the special sales tax
231 levied pursuant to this section. The indebtedness authorized by
232 this subsection shall not be considered when computing any
233 limitation of indebtedness of the municipality established by law.

234 (6) It is the intent of the Legislature that the amount of
235 state general funds appropriated to the Department of Revenue
236 shall not be reduced because of funds collected by the department
237 under this act.

238 **SECTION 2.** Section 21-33-303, Mississippi Code of 1972, is
239 amended as follows:

240 21-33-303. No municipality shall hereafter issue bonds
241 secured by a pledge of its full faith and credit for the purposes
242 authorized by law in an amount which, when added to the then
243 outstanding bonded indebtedness of such municipality, shall exceed
244 either (a) fifteen percent (15%) of the assessed value of the
245 taxable property within such municipality, according to the last
246 completed assessment for taxation, or (b) ten percent (10%) of the
247 assessment upon which taxes were levied for its fiscal year ending
248 September 30, 1984, whichever is greater. In computing such



249 indebtedness, there may be deducted all bonds or other evidences
250 of indebtedness, heretofore or hereafter issued, for school,
251 water, sewerage systems, gas, and light and power purposes and for
252 the construction of special improvements primarily chargeable to
253 the property benefited, or for the purpose of paying the
254 municipality's proportion of any betterment program, a portion of
255 which is primarily chargeable to the property benefited. However,
256 in no case shall any municipality contract any indebtedness which,
257 when added to all of the outstanding general obligation
258 indebtedness, both bonded and floating, shall exceed either (a)
259 twenty percent (20%) of the assessed value of all taxable property
260 within such municipality according to the last completed
261 assessment for taxation or (b) fifteen percent (15%) of the
262 assessment upon which taxes were levied for its fiscal year ending
263 September 30, 1984, whichever is greater. Nothing herein
264 contained shall be construed to apply to contract obligations in
265 any form heretofore or hereafter incurred by any municipality
266 which are subject to annual appropriations therefor, or to bonds
267 heretofore issued by any municipality for school purposes, or to
268 contract obligations in any form heretofore or hereafter incurred
269 by any municipality which are payable exclusively from the
270 revenues of any municipally owned utility, or to bonds issued by
271 any municipality under the provisions of Sections 57-1-1 through
272 57-1-51, or to any special assessment improvement bonds issued by
273 any municipality under the provisions of Sections 21-41-1 through



274 21-41-53, or to any indebtedness incurred under Section 55-23-8,
275 or to any indebtedness incurred under Section 1 of this act.

276 All bonds issued prior to July 1, 1990, pursuant to this
277 chapter by any municipality for the purpose of the constructing,
278 replacing, renovating or improving wastewater collection and
279 treatment facilities in order to comply with an administrative
280 order of the Mississippi Department of Natural Resources issued
281 pursuant to the Federal Water Pollution Control Act and amendments
282 thereto, are hereby exempt from the limitation imposed by this
283 section if the governing body of the municipality adopts an order,
284 resolution or ordinance to the effect that the rates paid by the
285 users of such facilities shall be increased to the extent
286 necessary to provide sufficient funds for the payment of the
287 principal of and interest on such bonds as each respectively
288 becomes due and payable as well as the necessary expenses in
289 connection with the operation and maintenance of such facilities.

290 **SECTION 3.** This act shall take effect and be in force from
291 and after July 1, 2018.

