

By: Representatives Wooten, Bell (65th),
Dortch

To: Ways and Means

HOUSE BILL NO. 1207

1 AN ACT TO AMEND SECTION 27-65-241, MISSISSIPPI CODE OF 1972,
2 TO REMOVE THE REPEALER ON THE PROVISION OF LAW THAT IMPOSES A
3 ONE-CENT SPECIAL SALES TAX ON THE GROSS PROCEEDS OF SALES OR GROSS
4 INCOME ON BUSINESSES IN ANY MUNICIPALITY WITH A POPULATION OF
5 150,000 OR MORE; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 27-65-241, Mississippi Code of 1972, is
8 amended as follows:

9 27-65-241. (1) As used in this section, the following terms
10 shall have the meanings ascribed to them in this section unless
11 otherwise clearly indicated by the context in which they are used:

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

17 (b) "Municipality" means any municipality in the State
18 of Mississippi with a population of one hundred fifty thousand



19 (150,000) or more according to the most recent federal decennial
20 census.

21 (c) "Restaurant" means and includes all places where
22 prepared food is sold and whose annual gross proceeds of sales or
23 gross income for the preceding calendar year equals or exceeds One
24 Hundred Thousand Dollars (\$100,000.00). The term "restaurant"
25 shall not include any nonprofit organization that is exempt from
26 federal income taxation under Section 501(c)(3) of the Internal
27 Revenue Code. For the purpose of calculating gross proceeds of
28 sales or gross income, the sales or income of all establishments
29 owned, operated or controlled by the same person, persons or
30 corporation shall be aggregated.

31 (2) (a) Subject to the provisions of this section, the
32 governing authorities of a municipality may impose upon all
33 persons as a privilege for engaging or continuing in business or
34 doing business within such municipality, a special sales tax at
35 the rate of not more than one percent (1%) of the gross proceeds
36 of sales or gross income of the business, as the case may be,
37 derived from any of the activities taxed at the rate of seven
38 percent (7%) or more under the Mississippi Sales Tax Law, Section
39 27-65-1 et seq.

40 (b) The tax levied under this section shall apply to
41 every person making sales of tangible personal property or
42 services within the municipality but shall not apply to:



- 43 (i) Sales exempted by Sections 27-65-19,
44 27-65-101, 27-65-103, 27-65-105, 27-65-107, 27-65-109 and
45 27-65-111 of the Mississippi Sales Tax Law;
- 46 (ii) Gross proceeds of sales or gross income of
47 restaurants derived from the sale of food and beverages;
- 48 (iii) Gross proceeds of sales or gross income of
49 hotels and motels derived from the sale of hotel rooms and motel
50 rooms for lodging purposes;
- 51 (iv) Retail sales of food for human consumption
52 not purchased with food stamps issued by the United States
53 Department of Agriculture, or other federal agency, but which
54 would be exempt under Section 27-65-111(o) from the taxes imposed
55 by this chapter if the food items were purchased with food stamps;
- 56 (v) Gross income of businesses engaging or
57 continuing in the business of TV cable systems, subscription TV
58 services, and other similar activities, including, but not limited
59 to, cable Internet services;
- 60 (vi) Wholesale sales of food and drink for human
61 consumption sold to full service vending machine operators; and
- 62 (vii) Wholesale sales of light wine, beer and
63 alcoholic beverages.

64 (3) (a) Before any tax authorized under this section may be
65 imposed, the governing authorities of the municipality shall adopt
66 a resolution declaring its intention to levy the tax, setting
67 forth the amount of the tax to be imposed, the purposes for which



68 the revenue collected pursuant to the tax levy may be used and
69 expended, the date upon which the tax shall become effective, the
70 date upon which the tax shall be repealed, and calling for an
71 election to be held on the question. The date of the election
72 shall be set in the resolution. Notice of the election shall be
73 published once each week for at least three (3) consecutive weeks
74 in a newspaper published or having a general circulation in the
75 municipality, with the first publication of the notice to be made
76 not less than twenty-one (21) days before the date fixed in the
77 resolution for the election and the last publication to be made
78 not more than seven (7) days before the election. At the
79 election, all qualified electors of the municipality may vote.
80 The ballots used at the election shall have printed thereon a
81 brief description of the sales tax, the amount of the sales tax
82 levy, a description of the purposes for which the tax revenue may
83 be used and expended and the words "FOR THE LOCAL SALES TAX" and
84 "AGAINST THE LOCAL SALES TAX" and the voter shall vote by placing
85 a cross (X) or check mark (✓) opposite his choice on the
86 proposition. When the results of the election have been canvassed
87 by the election commissioners of the municipality and certified by
88 them to the governing authorities, it shall be the duty of such
89 governing authorities to determine and adjudicate whether at least
90 three-fifths (3/5) of the qualified electors who voted in the
91 election voted in favor of the tax. If at least three-fifths
92 (3/5) of the qualified electors who voted in the election voted in



93 favor of the tax, the governing authorities shall adopt a
94 resolution declaring the levy and collection of the tax provided
95 in this section and shall set the first day of the second month
96 following the date of such adoption as the effective date of the
97 tax levy. A certified copy of this resolution, together with the
98 result of the election, shall be furnished to the Department of
99 Revenue not less than thirty (30) days before the effective date
100 of the levy.

101 (b) A municipality shall not hold more than two (2)
102 elections under this subsection.

103 (4) The revenue collected pursuant to the tax levy imposed
104 under this section may be expended to pay the cost of road and
105 street repair, reconstruction and resurfacing projects based on
106 traffic patterns, need and usage, and to pay the costs of water,
107 sewer and drainage projects in accordance with a master plan
108 adopted by the commission established pursuant to subsection (7).

109 (5) (a) The special sales tax authorized by this section
110 shall be collected by the Department of Revenue, shall be
111 accounted for separately from the amount of sales tax collected
112 for the state in the municipality and shall be paid to the
113 municipality. The Department of Revenue may retain one percent
114 (1%) of the proceeds of such tax for the purpose of defraying the
115 costs incurred by the department in the collection of the tax.
116 Payments to the municipality shall be made by the Department of



117 Revenue on or before the fifteenth day of the month following the
118 month in which the tax was collected.

119 (b) The proceeds of the special sales tax shall be
120 placed into a special municipal fund apart from the municipal
121 general fund and any other funds of the municipality, and shall be
122 expended by the municipality solely for the purposes authorized in
123 subsection (4) of this section. The records reflecting the
124 receipts and expenditures of the revenue from the special sales
125 tax shall be audited annually by an independent certified public
126 accountant. The accountant shall make a report of his findings to
127 the governing authorities of the municipality and file a copy of
128 his report with the Secretary of the Senate and the Clerk of the
129 House of Representatives. The audit shall be made and completed
130 as soon as practical after the close of the fiscal year of the
131 municipality, and expenses of the audit shall be paid from the
132 funds derived by the municipality pursuant to this section.

133 (c) All provisions of the Mississippi Sales Tax Law
134 applicable to filing of returns, discounts to the taxpayer,
135 remittances to the Department of Revenue, enforced collection,
136 rights of taxpayers, recovery of improper taxes, refunds of
137 overpaid taxes or other provisions of law providing for imposition
138 and collection of the state sales tax shall apply to the special
139 sales tax authorized by this section, except where there is a
140 conflict, in which case the provisions of this section shall
141 control. Any damages, penalties or interest collected for the



142 nonpayment of taxes imposed under this section, or for
143 noncompliance with the provisions of this section, shall be paid
144 to the municipality on the same basis and in the same manner as
145 the tax proceeds. Any overpayment of tax for any reason that has
146 been disbursed to a municipality or any payment of the tax to a
147 municipality in error may be adjusted by the Department of Revenue
148 on any subsequent payment to the municipality pursuant to the
149 provisions of the Mississippi Sales Tax Law. The Department of
150 Revenue may, from time to time, make such rules and regulations
151 not inconsistent with this section as may be deemed necessary to
152 carry out the provisions of this section, and such rules and
153 regulations shall have the full force and effect of law.

154 (6) If a municipality expands its corporate boundaries, the
155 governing authorities of the municipality may not impose the
156 special sales tax in the annexed area unless the tax is approved
157 at an election conducted, as far as is practicable, in the manner
158 provided in subsection (3) of this section, except that only
159 qualified electors in the annexed area may vote in the election.

160 (7) (a) Any municipality that levies the special sales tax
161 authorized under this section shall establish a commission as
162 provided for in this section. Expenditures of revenue from the
163 special sales tax authorized by this section shall be in
164 accordance with a master plan adopted by the commission pursuant
165 to this subsection.



166 (b) The commission shall be composed of ten (10) voting
167 members who shall be known as commissioners appointed as follows:

168 (i) Four (4) members representing the business
169 community in the municipality appointed by the local chamber of
170 commerce for initial terms of one (1), two (2), four (4) and five
171 (5) years respectively. The members appointed pursuant to this
172 paragraph shall be persons who represent businesses located within
173 the city limits of the municipality.

174 (ii) Three (3) members shall be appointed at large
175 by the mayor of the municipality, with the advice and consent of
176 the legislative body of the municipality, for initial terms of two
177 (2), three (3) and four (4) years respectively. All appointments
178 made by the mayor pursuant to this paragraph shall be residents of
179 the municipality.

180 (iii) One (1) member shall be appointed at large
181 by the Governor for an initial term of four (4) years. All
182 appointments made by the Governor pursuant to this paragraph shall
183 be residents of the municipality.

184 (iv) One (1) member shall be appointed at large by
185 the Lieutenant Governor for an initial term of four (4) years.
186 All appointments made by the Lieutenant Governor pursuant to this
187 paragraph shall be residents of the municipality.

188 (v) One (1) member shall be appointed at large by
189 the Speaker of the House of Representatives for a term of four (4)
190 years. All appointments made by the Speaker of the House of



191 Representatives pursuant to this paragraph shall be residents of
192 the municipality.

193 (c) The terms of all appointments made subsequent to
194 the initial appointment shall be made for five (5) years. Any
195 vacancy which may occur shall be filled in the same manner as the
196 original appointment and shall be made for the unexpired term.
197 Each member of the commission shall serve until his successor is
198 appointed and qualified.

199 (d) The mayor of the municipality shall designate a
200 chairman of the commission from among the membership of the
201 commission. The vice chairman and secretary shall be elected by
202 the commission from among the membership of the commission for a
203 term of two (2) years. The vice chairman and secretary may be
204 reelected, and the chairman may be reappointed.

205 (e) The commissioners shall serve without compensation.

206 (f) Any commissioner shall be disqualified and shall be
207 removed from office for either of the following reasons:

208 (i) Conviction of a felony in any state court or
209 in federal court; or

210 (ii) Failure to attend three (3) consecutive
211 meetings without just cause.

212 If a commissioner is removed for any of the above reasons,
213 the vacancy shall be filled in the manner prescribed in this
214 section and shall be made for the unexpired term.



215 (g) A quorum shall consist of six (6) voting members of
216 the commission. The commission shall adopt such rules and
217 regulations as may govern the time and place for holding meetings,
218 regular and special.

219 (h) The commission shall, with input from the
220 municipality, establish a master plan for road and street repair,
221 reconstruction and resurfacing projects based on traffic patterns,
222 need and usage, and for water, sewer and drainage projects.
223 Expenditures of the revenue from the tax authorized to be imposed
224 pursuant to this section shall be made at the discretion of the
225 governing authorities of the municipality if the expenditures
226 comply with the master plan. The commission shall monitor the
227 compliance of the municipality with the master plan.

228 (8) The governing authorities of any municipality that
229 levies the special sales tax authorized under this section are
230 authorized to incur debt, including bonds, notes or other
231 evidences of indebtedness, for the purpose of paying the costs of
232 road and street repair, reconstruction and resurfacing projects
233 based on traffic patterns, need and usage, and to pay the costs of
234 water, sewer and drainage projects in accordance with a master
235 plan adopted by the commission established pursuant to subsection
236 (7) of this section. Any bonds or notes issued to pay such costs
237 may be secured by the proceeds of the special sales tax levied
238 pursuant to this section or may be general obligations of the



239 municipality and shall satisfy the requirements for the issuance
240 of debt provided by Sections 21-33-313 through 21-33-323.

241 * * *

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

