

By: Representative Eubanks

To: Ways and Means

HOUSE BILL NO. 589

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
10 THREE-FIFTHS OF THE VOTES CAST AT AN ELECTION CALLED AND HELD FOR
11 SUCH PURPOSE; TO PROVIDE THAT THE ELECTION MUST BE HELD DURING A
12 REGULAR OR GENERAL ELECTION; TO PROVIDE THAT THE SPECIAL SALES TAX
13 SHALL NOT BE EXTENDED UNLESS AUTHORIZED BY AT LEAST THREE-FIFTHS
14 OF THE VOTES CAST AT AN ELECTION CALLED AND HELD FOR SUCH PURPOSE;
15 TO PROVIDE THE PURPOSES FOR WHICH THE REVENUE COLLECTED FROM THE
16 SPECIAL SALES TAX MAY BE USED AND EXPENDED; TO PROVIDE FOR THE
17 DISCONTINUANCE OF THE SPECIAL SALES TAX UPON COMPLETION OF THE
18 FUNDING OF THE PROJECTS FOR WHICH THE TAX WAS LEVIED; TO AMEND
19 SECTIONS 21-33-303 AND 19-9-5, MISSISSIPPI CODE OF 1972, IN
20 CONFORMITY THERETO; AND 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 as the case may be, shall adopt a resolution declaring its
84 intention to levy the tax, setting forth the amount of the tax to
85 be imposed, the purposes for which the revenue collected pursuant
86 to the tax levy may be used and expended, the date upon which the
87 tax shall become effective, the date upon which the tax shall be
88 repealed, and calling for an election to be held on the question.
89 The date of the election shall be set in the resolution and such
90 election must be held on the same date as any regular or general
91 election for municipal, county, state or federal officers. Notice
92 of the election shall be published once each week for at least
93 three (3) consecutive weeks in a newspaper published or having a
94 general circulation in the county or municipality, as the case may
95 be, with the first publication of the notice to be made not less
96 than twenty-one (21) days before the date fixed in the resolution
97 for 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, as the case may be, 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, as the case may be, shall adopt a resolution declaring its intention to extend the tax, setting forth the amount of the tax



to be extended, the purposes for which the revenue collected pursuant to the tax extension may be used and expended, the date upon which the tax extension shall become effective, the date upon which the tax extension shall be repealed, and calling for an election to be held on the question of the extension. The date of the election for the extension shall be set in the resolution and such election must be held on the same date as any regular or general election for municipal, county, state or federal officers. Notice of the election shall be published once each week for at least three (3) consecutive weeks in a newspaper published or having a general circulation in the county or municipality, as the case may be, with the first publication of the 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. Notice of the election shall also be published on the county or municipality website, as the case may be, during the same time as the newspaper publication. At the election, all qualified electors of the county or municipality, as the case may be, may vote. The ballots used at the election shall have printed thereon a brief description of the sales tax extension, the amount of the sales tax extension, a description of the purposes for which the tax revenue from the extension may be used and expended and the words "FOR THE EXTENSION OF THE LOCAL SALES TAX" and "AGAINST THE EXTENSION OF THE LOCAL SALES TAX" and the voter shall vote by



152 placing a cross (X) or check mark (✓) opposite his choice on the
153 proposition. When the results of the election have been canvassed
154 by the election commissioners of the county or municipality and
155 certified by them to the governing authorities, it shall be the
156 duty of such governing authorities to determine and adjudicate
157 whether at least three-fifths (3/5) of the qualified electors who
158 voted in the election voted in favor of the tax extension. If at
159 least three-fifths (3/5) of the qualified electors who voted in
160 the election voted in favor of the tax extension, the governing
161 authorities shall adopt a resolution declaring the extension of
162 the tax and collection of the tax provided in this section and
163 shall set the first day of the second month following the date of
164 such adoption as the effective date of the tax extension. A
165 certified copy of this resolution, together with the result of the
166 election, shall be furnished to the Department of Revenue not less
167 than thirty (30) days before the effective date of the extension.

168 (4) Upon approval of the expenditure by the Mississippi
169 Development Authority pursuant to subsection (6) of this section,
170 the revenue collected pursuant to the tax levy imposed under this
171 section may be expended to pay the costs reasonably related to (a)
172 road and street repair, reconstruction and resurfacing projects
173 based on traffic patterns, need and usage, as well as costs for
174 easement acquisition, right-of-way acquisition, planning and
175 design and professional services related to such projects and (b)
176 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



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

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



approval of the Mississippi Development Authority as being
consistent with the provisions of this section.

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

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

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



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

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

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

SECTION 3. 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



301 according to the last completed assessment for taxation, or (b)
302 fifteen percent (15%) of the assessment upon which taxes were
303 levied for its fiscal year ending September 30, 1984, whichever is
304 greater.

305 However, any county in the state which shall have experienced
306 washed-out or collapsed bridges on the public roads of the county
307 for any cause or reason may hereafter issue bonds for bridge
308 purposes as now authorized by law in an amount which, when added
309 to the then outstanding general obligation bonds of such county,
310 shall not exceed either (a) twenty percent (20%) of the assessed
311 value of the taxable property within such county according to the
312 last completed assessment for taxation or (b) fifteen percent
313 (15%) of the assessment upon which taxes were levied for its
314 fiscal year ending September 30, 1984, whichever is greater.

315 Provided further, in computing such indebtedness, there may
316 be deducted all bonds or other evidences of indebtedness
317 heretofore or hereafter issued, for the construction of hospitals,
318 ports or other capital improvements which are payable primarily
319 from the net revenue to be generated from such hospital, port or
320 other capital improvement, which revenue shall be pledged to the
321 retirement of such bonds or other evidences of indebtedness,
322 together with the full faith and credit of the county. However,
323 in no case shall any county contract any indebtedness payable, in
324 whole or in part, from proceeds of ad valorem taxes which, when
325 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 Section 57-75-37(4), or to any indebtedness incurred under Section 2 of this act.

SECTION 4. Section 21-33-303, Mississippi Code of 1972, is amended as follows:

21-33-303. No municipality 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 bonded indebtedness of such municipality, shall exceed either (a) fifteen percent (15%) of the assessed value of the taxable property within such municipality, according to the last completed assessment for taxation, or (b) ten percent (10%) of the assessment upon which taxes were levied for its fiscal year ending



351 September 30, 1984, whichever is greater. In computing such
352 indebtedness, there may be deducted all bonds or other evidences
353 of indebtedness, heretofore or hereafter issued, for school,
354 water, sewerage systems, gas, and light and power purposes and for
355 the construction of special improvements primarily chargeable to
356 the property benefited, or for the purpose of paying the
357 municipality's proportion of any betterment program, a portion of
358 which is primarily chargeable to the property benefited. However,
359 in no case shall any municipality contract any indebtedness which,
360 when added to all of the outstanding general obligation
361 indebtedness, both bonded and floating, shall exceed either (a)
362 twenty percent (20%) of the assessed value of all taxable property
363 within such municipality according to the last completed
364 assessment for taxation or (b) fifteen percent (15%) of the
365 assessment upon which taxes were levied for its fiscal year ending
366 September 30, 1984, whichever is greater. Nothing herein
367 contained shall be construed to apply to contract obligations in
368 any form heretofore or hereafter incurred by any municipality
369 which are subject to annual appropriations therefor, or to bonds
370 heretofore issued by any municipality for school purposes, or to
371 contract obligations in any form heretofore or hereafter incurred
372 by any municipality which are payable exclusively from the
373 revenues of any municipally owned utility, or to bonds issued by
374 any municipality under the provisions of Sections 57-1-1 through
375 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 through a loan to a municipality under Section 57-75-11(tt) in connection with a project defined in Section 57-75-5(f)(xxvii), 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 5. This act shall take effect and be in force from and after July 1, 2021.

