

By: Senator(s) Sojourner

To: Finance

SENATE BILL NO. 2768

1 AN ACT TO REQUIRE THAT ANY LOCAL TAX WHICH IS TO BE COLLECTED
2 AND PAID TO THE DEPARTMENT OF REVENUE IN THE SAME OR SIMILAR
3 MANNER THAT STATE SALES TAXES ARE COLLECTED AND PAID, WHETHER
4 AUTHORIZED UNDER THE GENERAL LAW OR UNDER A LOCAL AND PRIVATE LAW
5 OF THIS STATE, BE PLACED ON THE BALLOT FOR THE APPROVAL OF AT
6 LEAST 60% OF THE QUALIFIED ELECTORS WHO VOTE IN THE ELECTION OF
7 THE LOCAL GOVERNMENT, BOTH FOR INITIAL IMPOSITION AND FOR
8 CONTINUATION OR RENEWAL; TO SPECIFY THAT NOTICE REQUIREMENTS SHALL
9 BE THE SAME FOR A VOTE ON THE CONTINUATION OR RENEWAL OF A TAX AS
10 FOR A VOTE ON ITS INITIAL IMPOSITION; TO PROVIDE THAT ANY PROPOSED
11 LOCAL TAX FAILING TO RECEIVE THE REQUIRED 60% APPROVAL SHALL NOT
12 BE IMPOSED, AND THE AUTHORITY FOR ANY EXISTING LOCAL TAX FAILING
13 TO RECEIVE THE REQUIRED 60% APPROVAL SHALL LAPSE ON THE DATE OF
14 ITS REPEAL; TO AMEND SECTION 27-65-241, MISSISSIPPI CODE OF 1972,
15 IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

17 **SECTION 1.** Any local tax which is to be collected and paid
18 to the department in the same or similar manner that state sales
19 taxes are collected and paid, whether authorized under the general
20 law or under a local and private law of this state, shall be
21 placed on the ballot for the approval of at least sixty percent
22 (60%) of the qualified electors who vote in the election of the
23 local government, both for initial imposition and for continuation
24 or renewal. Notice requirements shall be the same for a vote on



25 the continuation or renewal of a tax as for a vote on its initial
26 imposition. Any proposed local tax failing to receive the
27 required sixty percent (60%) approval shall not be imposed, and
28 the authority for any existing local tax failing to receive the
29 required sixty percent (60%) approval shall lapse on the date of
30 its repeal.

31 **SECTION 2.** Section 27-65-241, Mississippi Code of 1972, is
32 amended as follows:

33 27-65-241. (1) As used in this section, the following terms
34 shall have the meanings ascribed to them in this section unless
35 otherwise clearly indicated by the context in which they are used:

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

41 (b) "Municipality" means any municipality in the State
42 of Mississippi with a population of one hundred fifty thousand
43 (150,000) or more according to the most recent federal decennial
44 census.

45 (c) "Restaurant" means and includes all places where
46 prepared food is sold and whose annual gross proceeds of sales or
47 gross income for the preceding calendar year equals or exceeds One
48 Hundred Thousand Dollars (\$100,000.00). The term "restaurant"
49 shall not include any nonprofit organization that is exempt from



50 federal income taxation under Section 501(c)(3) of the Internal
51 Revenue Code. For the purpose of calculating gross proceeds of
52 sales or gross income, the sales or income of all establishments
53 owned, operated or controlled by the same person, persons or
54 corporation shall be aggregated.

55 (2) (a) Subject to the provisions of this section, the
56 governing authorities of a municipality may impose upon all
57 persons as a privilege for engaging or continuing in business or
58 doing business within such municipality, a special sales tax at
59 the rate of not more than one percent (1%) of the gross proceeds
60 of sales or gross income of the business, as the case may be,
61 derived from any of the activities taxed at the rate of seven
62 percent (7%) or more under the Mississippi Sales Tax Law, Section
63 27-65-1 et seq.

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

67 (i) Sales exempted by Sections 27-65-19,
68 27-65-101, 27-65-103, 27-65-105, 27-65-107, 27-65-109 and
69 27-65-111 of the Mississippi Sales Tax Law;

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

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



75 (iv) Retail sales of food for human consumption
76 not purchased with food stamps issued by the United States
77 Department of Agriculture, or other federal agency, but which
78 would be exempt under Section 27-65-111(o) from the taxes imposed
79 by this chapter if the food items were purchased with food stamps;

80 (v) Gross income of businesses engaging or
81 continuing in the business of TV cable systems, subscription TV
82 services, and other similar activities, including, but not limited
83 to, cable internet services;

84 (vi) Wholesale sales of food and drink for human
85 consumption sold to full service vending machine operators; and

86 (vii) Wholesale sales of light wine, light spirit
87 product, beer and alcoholic beverages.

88 (3) (a) Before any tax authorized under this section may be
89 imposed, or continued or renewed pursuant to the extension of its
90 repeal date, the governing authorities of the municipality shall
91 adopt a resolution declaring its intention to levy the tax,
92 setting forth the amount of the tax to be imposed, the purposes
93 for which the revenue collected pursuant to the tax levy may be
94 used and expended, the date upon which the tax shall become
95 effective, the date upon which the tax shall be repealed, and
96 calling for an election to be held on the question. The date of
97 the election shall be set in the resolution. Notice of the
98 election shall be published once each week for at least three (3)
99 consecutive weeks in a newspaper published or having a general



100 circulation in the municipality, with the first publication of the
101 notice to be made not less than twenty-one (21) days before the
102 date fixed in the resolution for the election and the last
103 publication to be made not more than seven (7) days before the
104 election. At the election, all qualified electors of the
105 municipality may vote. The ballots used at the election shall
106 have printed thereon a brief description of the sales tax, the
107 amount of the sales tax levy, a description of the purposes for
108 which the tax revenue may be used and expended and the words "FOR
109 THE LOCAL SALES TAX" and "AGAINST THE LOCAL SALES TAX" and the
110 voter shall vote by placing a cross (X) or check mark (✓) opposite
111 his choice on the proposition. When the results of the election
112 have been canvassed by the election commissioners of the
113 municipality and certified by them to the governing authorities,
114 it shall be the duty of such governing authorities to determine
115 and adjudicate whether at least three-fifths (3/5) of the
116 qualified electors who voted in the election voted in favor of the
117 tax. If at least three-fifths (3/5) of the qualified electors who
118 voted in the election voted in favor of the tax, the governing
119 authorities shall adopt a resolution declaring the levy and
120 collection of the tax provided in this section and shall set the
121 first day of the second month following the date of such adoption
122 as the effective date of the tax levy. A certified copy of this
123 resolution, together with the result of the election, shall be



124 furnished to the Department of Revenue not less than thirty (30)
125 days before the effective date of the levy.

126 (b) A municipality shall not hold more than two (2)
127 elections under this subsection for the initial imposition of the
128 tax. The imposition, continuation or renewal of the tax
129 authorized in this section shall comply with the terms of Section
130 1 of this act.

131 (4) The revenue collected pursuant to the tax levy imposed
132 under this section may be expended to pay the cost of road and
133 street repair, reconstruction and resurfacing projects based on
134 traffic patterns, need and usage, and to pay the costs of water,
135 sewer and drainage projects in accordance with a master plan
136 adopted by the department established pursuant to subsection (7).

137 (5) (a) The special sales tax authorized by this section
138 shall be collected by the Department of Revenue, shall be
139 accounted for separately from the amount of sales tax collected
140 for the state in the municipality and shall be paid to the
141 municipality. The Department of Revenue may retain one percent
142 (1%) of the proceeds of such tax for the purpose of defraying the
143 costs incurred by the department in the collection of the tax.
144 Payments to the municipality shall be made by the Department of
145 Revenue on or before the fifteenth day of the month following the
146 month in which the tax was collected.

147 (b) The proceeds of the special sales tax shall be
148 placed into a special municipal fund apart from the municipal



149 general fund and any other funds of the municipality, and shall be
150 expended by the municipality solely for the purposes authorized in
151 subsection (4) of this section. The records reflecting the
152 receipts and expenditures of the revenue from the special sales
153 tax shall be audited annually by an independent certified public
154 accountant. The accountant shall make a report of his findings to
155 the governing authorities of the municipality and file a copy of
156 his report with the Secretary of the Senate and the Clerk of the
157 House of Representatives. The audit shall be made and completed
158 as soon as practical after the close of the fiscal year of the
159 municipality, and expenses of the audit shall be paid from the
160 funds derived by the municipality pursuant to this section.

161 (c) All provisions of the Mississippi Sales Tax Law
162 applicable to filing of returns, discounts to the taxpayer,
163 remittances to the Department of Revenue, enforced collection,
164 rights of taxpayers, recovery of improper taxes, refunds of
165 overpaid taxes or other provisions of law providing for imposition
166 and collection of the state sales tax shall apply to the special
167 sales tax authorized by this section, except where there is a
168 conflict, in which case the provisions of this section shall
169 control. Any damages, penalties or interest collected for the
170 nonpayment of taxes imposed under this section, or for
171 noncompliance with the provisions of this section, shall be paid
172 to the municipality on the same basis and in the same manner as
173 the tax proceeds. Any overpayment of tax for any reason that has



174 been disbursed to a municipality or any payment of the tax to a
175 municipality in error may be adjusted by the Department of Revenue
176 on any subsequent payment to the municipality pursuant to the
177 provisions of the Mississippi Sales Tax Law. The Department of
178 Revenue may, from time to time, make such rules and regulations
179 not inconsistent with this section as may be deemed necessary to
180 carry out the provisions of this section, and such rules and
181 regulations shall have the full force and effect of law.

182 (6) If a municipality expands its corporate boundaries, the
183 governing authorities of the municipality may not impose the
184 special sales tax in the annexed area unless the tax is approved
185 at an election conducted, as far as is practicable, in the manner
186 provided in subsection (3) of this section, except that only
187 qualified electors in the annexed area may vote in the election.

188 (7) (a) Any municipality that levies the special sales tax
189 authorized under this section shall establish a commission as
190 provided for in this section. Expenditures of revenue from the
191 special sales tax authorized by this section shall be in
192 accordance with a master plan adopted by the commission pursuant
193 to this subsection.

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

196 (i) Four (4) members representing the business
197 community in the municipality appointed by the local chamber of
198 commerce for initial terms of one (1), two (2), four (4) and five



199 (5) years respectively. The members appointed pursuant to this
200 paragraph shall be persons who represent businesses located within
201 the city limits of the municipality.

202 (ii) Three (3) members shall be appointed at large
203 by the mayor of the municipality, with the advice and consent of
204 the legislative body of the municipality, for initial terms of two
205 (2), three (3) and four (4) years respectively. All appointments
206 made by the mayor pursuant to this paragraph shall be residents of
207 the municipality.

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

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

216 (v) One (1) member shall be appointed at large by
217 the Speaker of the House of Representatives for a term of four (4)
218 years. All appointments made by the Speaker of the House of
219 Representatives pursuant to this paragraph shall be residents of
220 the municipality.

221 (c) The terms of all appointments made subsequent to
222 the initial appointment shall be made for five (5) years. Any
223 vacancy which may occur shall be filled in the same manner as the



224 original appointment and shall be made for the unexpired term.
225 Each member of the commission shall serve until his successor is
226 appointed and qualified.

227 (d) The mayor of the municipality shall designate a
228 chairman of the commission from among the membership of the
229 commission. The vice chairman and secretary shall be elected by
230 the commission from among the membership of the commission for a
231 term of two (2) years. The vice chairman and secretary may be
232 reelected, and the chairman may be reappointed.

233 (e) The commissioners shall serve without compensation.

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

236 (i) Conviction of a felony in any state court or
237 in federal court; or

238 (ii) Failure to attend three (3) consecutive
239 meetings without just cause.

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

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

247 (h) The commission shall, with input from the
248 municipality, establish a master plan for road and street repair,



249 reconstruction and resurfacing projects based on traffic patterns,
250 need and usage, and for water, sewer and drainage projects.
251 Expenditures of the revenue from the tax authorized to be imposed
252 pursuant to this section shall be made at the discretion of the
253 governing authorities of the municipality if the expenditures
254 comply with the master plan. The commission shall monitor the
255 compliance of the municipality with the master plan.

256 (8) The governing authorities of any municipality that
257 levies the special sales tax authorized under this section are
258 authorized to incur debt, including bonds, notes or other
259 evidences of indebtedness, for the purpose of paying the costs of
260 road and street repair, reconstruction and resurfacing projects
261 based on traffic patterns, need and usage, and to pay the costs of
262 water, sewer and drainage projects in accordance with a master
263 plan adopted by the commission established pursuant to subsection
264 (7) of this section. Any bonds or notes issued to pay such costs
265 may be secured by the proceeds of the special sales tax levied
266 pursuant to this section or may be general obligations of the
267 municipality and shall satisfy the requirements for the issuance
268 of debt provided by Sections 21-33-313 through 21-33-323.

269 (9) This section shall stand repealed from and after July 1,
270 2035.

271 **SECTION 3.** Section 1 of this act shall be codified in Title
272 27, Chapter 65, Mississippi Code of 1972.



273 **SECTION 4.** This act shall take effect and be in force from
274 and after its passage.

