

By: Senator(s) McLendon, Parker, Blackwell

To: Local and Private;
Finance

SENATE BILL NO. 3209

1 AN ACT TO AUTHORIZE THE GOVERNING AUTHORITIES OF THE CITY OF
 2 HERNANDO, MISSISSIPPI, TO LEVY AN ADDITIONAL SALES TAX OF NOT MORE
 3 THAN 1% UPON THE GROSS PROCEEDS OF THE SALES OF RESTAURANTS FOR
 4 THE PURPOSE OF PROVIDING FUNDS TO SUPPORT CAPITAL IMPROVEMENTS
 5 RELATED TO PARKS AND RECREATION WITHIN THE CITY; TO PROVIDE THAT
 6 AN ELECTION BE HELD ON THE FIRST TUESDAY AFTER THE FIRST MONDAY IN
 7 NOVEMBER 2022 ON THE QUESTION OF THE LEVYING OF SUCH TAX; TO
 8 PROVIDE THAT THE TAX SHALL BE SUBJECT TO REAUTHORIZATION BY THE
 9 VOTERS AT EACH MUNICIPAL GENERAL ELECTION; AND FOR RELATED
 10 PURPOSES.

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

12 **SECTION 1.** As used in this act, the following terms have the
 13 meanings ascribed to them in this section unless the context
 14 clearly indicates otherwise:

15 (a) "City" means the City of Hernando, Mississippi.

16 (b) "Governing authorities" means the governing
 17 authorities of the city.

18 (c) "Prepared food" means food prepared or beverages
 19 prepared by a restaurant in the city that is (i) ready to be
 20 consumed without any further food preparation, alteration or
 21 repackaging on site; and (ii) prepared, provided, sold or served
 22 by a restaurant using any cooking, packaging or food preparation



23 technique. Prepared food may be eaten either on or off a
24 restaurant's premises.

25 (d) "Restaurant" means all places within the corporate
26 limits of the city where prepared food and beverages are sold for
27 consumption, whether such food is consumed on the premises or not.
28 Such places include food trucks, lunch stands, cafes, cafeterias,
29 delicatessens, drive-in restaurants, carry out restaurants,
30 caterers, concession stands, hotel and motel dining rooms,
31 convenience stores, grocery stores, restaurants and similar
32 businesses. The term "restaurant" does not include any school,
33 hospital, medical clinic, convalescent or nursing home providing
34 food for students, patients, visitors and their families.

35 **SECTION 2.** (1) For the purpose of providing funds to
36 support capital improvements related to parks and recreation
37 within the city, the governing authorities, in their discretion,
38 may levy, assess and collect a tax from persons, firms or
39 corporations specified in this subsection, a tax, which shall be
40 in addition to all other taxes or assessments imposed. The tax
41 shall be imposed upon every person, firm or corporation operating
42 a restaurant in the city where prepared food and drink are sold to
43 the public, at a rate not to exceed one percent (1%) of the gross
44 proceeds of the sales of such restaurant or business.

45 (2) Persons, firms, corporations or other entities liable
46 for the tax imposed under subsection (1) of this section shall add
47 the amount of the tax to the sales price of the food and beverages



48 and shall collect, insofar as practicable, the amount of the tax
49 due from the person purchasing the food or beverages at the time
50 of payment therefor.

51 **SECTION 3.** (1) Before any tax authorized under this act may
52 be imposed, the governing authorities shall adopt a resolution
53 declaring their intention to levy the tax, setting forth the
54 amount of the tax to be imposed, the date upon which the tax shall
55 become effective and calling for an election to be held on the
56 question. The date of the election shall be the first Tuesday
57 after the first Monday in November 2022. Notice of the intention
58 and the election shall be published once each week for at least
59 three (3) consecutive weeks in a newspaper published or having a
60 general circulation in the city, with the first publication of the
61 notice to be made not less than twenty-one (21) days before the
62 date fixed in the resolution for the election and the last
63 publication to be made not more than seven (7) days before the
64 election. At the election, all qualified electors of the city may
65 vote, and the ballots used in the election shall have printed
66 thereon a brief statement of the amount and purposes of the
67 proposed tax levy and the words "FOR THE TAX" and, on a separate
68 line, "AGAINST THE TAX" and the voters shall vote by placing a
69 cross (X) or check (✓) opposite their choice on the proposition.
70 When the results of the election shall have been canvassed and
71 certified, the city may levy the tax if at least sixty percent
72 (60%) of the qualified electors who vote in the election vote in



73 favor of the tax. At least thirty (30) days before the effective
74 date of the tax, the governing authorities shall furnish to the
75 Department of Revenue a certified copy of the resolution
76 evidencing the tax.

77 (2) After the initial levy of the tax authorized under this
78 act, the authority for the tax shall expire at the end of the
79 month in which the next municipal general election is held, unless
80 the tax is reauthorized by at least sixty percent (60%) of the
81 qualified electors who vote in that municipal general election.
82 The tax shall be subject to the same reapproval by the electors at
83 each subsequent municipal general election. Before each municipal
84 general election, the governing authorities shall adopt a
85 resolution declaring their intention to continue the levy of the
86 tax authorized under this act and previously approved by the
87 electors, and calling for an election to be held on the question
88 of the continuation of the tax. No later than the end of the
89 month in which the electors reauthorize the tax, the governing
90 authorities shall furnish to the Department of Revenue a certified
91 copy of the resolution evidencing the continuation of the tax.
92 Except as otherwise provided in this subsection (2), the
93 provisions of subsection (1) of this section shall apply to each
94 municipal general election and notice therefor.

95 **SECTION 4.** (1) On or before the fifteenth day of the month
96 preceding the date on which the city will begin to levy the tax
97 authorized under Section 2 of this act, the governing authorities



98 shall give written notification to the Commissioner of Revenue of
99 the date on which the tax will become effective.

100 (2) The tax must be collected by and paid to the Department
101 of Revenue in the same manner that state sales taxes are computed,
102 collected and paid, and the full enforcement provisions and all
103 other provisions of Title 27, Chapter 65, Mississippi Code of
104 1972, will apply as necessary for the implementation of this act.

105 (3) The proceeds of the tax, less three percent (3%) thereof
106 which shall be retained by the Department of Revenue to defray the
107 cost of collection, shall be paid to the governing authorities on
108 or before the fifteenth day of the month following the month in
109 which collected.

110 (4) Accounting for receipts and expenditures of the revenue
111 from the tax shall be made separately from the accounting of
112 receipts and expenditures of the general fund and any other funds
113 of the city. The records reflecting the receipts and expenditures
114 of the revenue from the tax shall be audited annually by an
115 independent certified public accountant, and the accountant shall
116 make a written report of his audit to the governing authorities.
117 The audit shall be made and completed as soon as practicable after
118 the close of the fiscal year, and expenses of the audit shall be
119 paid from the funds derived pursuant to this act.

120 (5) The proceeds of the tax may not be considered by the
121 city as general fund revenues but must be placed into a special
122 fund apart from the city general fund and any other funds and



123 expended by the city strictly for the purposes prescribed under
124 Section 2 of this act.

125 **SECTION 5.** This act shall take effect and be in force from
126 and after its passage.

