

Senate Amendments to House Bill No. 1168

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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

17 27-65-241. (1) As used in this section, the following terms
18 shall have the meanings ascribed to them in this section unless
19 otherwise clearly indicated by the context in which they are used:

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

25 (b) "Municipality" means any municipality in the State
26 of Mississippi with a population of one hundred fifty thousand
27 (150,000) or more according to the most recent federal decennial
28 census.

29 (c) "Restaurant" means and includes all places where
30 prepared food is sold and whose annual gross proceeds of sales or
31 gross income for the preceding calendar year equals or exceeds One

32 Hundred Thousand Dollars (\$100,000.00). The term "restaurant"
33 shall not include any nonprofit organization that is exempt from
34 federal income taxation under Section 501(c)(3) of the Internal
35 Revenue Code. For the purpose of calculating gross proceeds of
36 sales or gross income, the sales or income of all establishments
37 owned, operated or controlled by the same person, persons or
38 corporation shall be aggregated.

39 (2) (a) Subject to the provisions of this section, the
40 governing authorities of a municipality may impose upon all
41 persons as a privilege for engaging or continuing in business or
42 doing business within such municipality, a special sales tax at
43 the rate of not more than one percent (1%) of the gross proceeds
44 of sales or gross income of the business, as the case may be,
45 derived from any of the activities taxed at the rate of seven
46 percent (7%) or more under the Mississippi Sales Tax Law, Section
47 27-65-1 et seq.

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

51 (i) Sales exempted by Sections 27-65-19,
52 27-65-101, 27-65-103, 27-65-105, 27-65-107, 27-65-109 and
53 27-65-111 of the Mississippi Sales Tax Law;

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

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

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

64 (v) Gross income of businesses engaging or
65 continuing in the business of TV cable systems, subscription TV
66 services, and other similar activities, including, but not limited
67 to, cable Internet services;

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

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

72 (3) (a) Before any tax authorized under this section may be
73 imposed, the governing authorities of the municipality shall adopt
74 a resolution declaring its intention to levy the tax, setting
75 forth the amount of the tax to be imposed, the purposes for which
76 the revenue collected pursuant to the tax levy may be used and
77 expended, the date upon which the tax shall become effective, the
78 date upon which the tax shall be repealed, and calling for an
79 election to be held on the question. The date of the election
80 shall be set in the resolution. Notice of the election shall be
81 published once each week for at least three (3) consecutive weeks

82 in a newspaper published or having a general circulation in the
83 municipality, with the first publication of the notice to be made
84 not less than twenty-one (21) days before the date fixed in the
85 resolution for the election and the last publication to be made
86 not more than seven (7) days before the election. At the
87 election, all qualified electors of the municipality may vote.
88 The ballots used at the election shall have printed thereon a
89 brief description of the sales tax, the amount of the sales tax
90 levy, a description of the purposes for which the tax revenue may
91 be used and expended and the words "FOR THE LOCAL SALES TAX" and
92 "AGAINST THE LOCAL SALES TAX" and the voter shall vote by placing
93 a cross (X) or check mark (√) opposite his choice on the
94 proposition. When the results of the election have been canvassed
95 by the election commissioners of the municipality and certified by
96 them to the governing authorities, it shall be the duty of such
97 governing authorities to determine and adjudicate whether at least
98 three-fifths (3/5) of the qualified electors who voted in the
99 election voted in favor of the tax. If at least three-fifths
100 (3/5) of the qualified electors who voted in the election voted in
101 favor of the tax, the governing authorities shall adopt a
102 resolution declaring the levy and collection of the tax provided
103 in this section and shall set the first day of the second month
104 following the date of such adoption as the effective date of the
105 tax levy. A certified copy of this resolution, together with the
106 result of the election, shall be furnished to the Department of

107 Revenue not less than thirty (30) days before the effective date
108 of the levy.

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

111 (4) The revenue collected pursuant to the tax levy imposed
112 under this section may be expended to pay the cost of road and
113 street repair, reconstruction and resurfacing projects based on
114 traffic patterns, need and usage, and to pay the costs of water,
115 sewer and drainage projects in accordance with a master plan
116 adopted by the * * * commission established pursuant to subsection
117 (7).

118 (5) (a) The special sales tax authorized by this section
119 shall be collected by the Department of Revenue, shall be
120 accounted for separately from the amount of sales tax collected
121 for the state in the municipality and shall be paid to the
122 municipality. The Department of Revenue may retain one percent
123 (1%) of the proceeds of such tax for the purpose of defraying the
124 costs incurred by the department in the collection of the tax.
125 Payments to the municipality shall be made by the Department of
126 Revenue on or before the fifteenth day of the month following the
127 month in which the tax was collected. However, if a municipality
128 fails to comply with the audit, reporting and/or report filing
129 requirements of paragraph (b) of this subsection and does not
130 remedy such noncompliance within thirty (30) days after receiving
131 written notice of noncompliance, the Department of Revenue shall
132 withhold payments otherwise payable to the municipality under this

133 paragraph (a) until the department receives written notice that
134 the municipality has complied with such requirements.

135 (b) The proceeds of the special sales tax shall be
136 placed into a special municipal fund apart from the municipal
137 general fund and any other funds of the municipality, and shall be
138 expended by the municipality solely for the purposes authorized in
139 subsection (4) of this section. The records reflecting the
140 receipts and expenditures of the revenue from the special sales
141 tax shall be provided in detail to the members of the commission
142 monthly, to include the name of the vendor and the project, and
143 the dates and amounts received and paid, and shall also be audited
144 annually by an independent certified public accountant. The
145 accountant shall make a report of his findings to the governing
146 authorities of the municipality and file a copy of his report with
147 the Secretary of the Senate and the Clerk of the House of
148 Representatives and the commission members. The audit shall be
149 made and completed as soon as practical after the close of the
150 fiscal year of the municipality, and expenses of the audit shall
151 be paid from the funds derived by the municipality pursuant to
152 this section.

153 (c) Any expenditure from the special municipal fund
154 defined in paragraph (b) above that was not for a project approved
155 by the commission, or was in excess of the amount approved by the
156 commission, shall be reimbursed by the city to the special fund.

157 (* * *d) All provisions of the Mississippi Sales Tax
158 Law applicable to filing of returns, discounts to the taxpayer,

159 remittances to the Department of Revenue, enforced collection,
160 rights of taxpayers, recovery of improper taxes, refunds of
161 overpaid taxes or other provisions of law providing for imposition
162 and collection of the state sales tax shall apply to the special
163 sales tax authorized by this section, except where there is a
164 conflict, in which case the provisions of this section shall
165 control. Any damages, penalties or interest collected for the
166 nonpayment of taxes imposed under this section, or for
167 noncompliance with the provisions of this section, shall be paid
168 to the municipality on the same basis and in the same manner as
169 the tax proceeds. Any overpayment of tax for any reason that has
170 been disbursed to a municipality or any payment of the tax to a
171 municipality in error may be adjusted by the Department of Revenue
172 on any subsequent payment to the municipality pursuant to the
173 provisions of the Mississippi Sales Tax Law. The Department of
174 Revenue may, from time to time, make such rules and regulations
175 not inconsistent with this section as may be deemed necessary to
176 carry out the provisions of this section, and such rules and
177 regulations shall have the full force and effect of law.

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

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

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

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

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

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

208 (iv) One (1) member shall be appointed at large by
209 the Lieutenant Governor for an initial term of four (4) years.

210 All appointments made by the Lieutenant Governor pursuant to this
211 paragraph shall be residents of the municipality.

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

217 (c) The terms of all appointments made subsequent to
218 the initial appointment shall be made for five (5) years. Any
219 vacancy which may occur shall be filled in the same manner as the
220 original appointment and shall be made for the unexpired
221 term. * * *

222 (d) The mayor of the municipality shall designate a
223 chairman of the commission from among the membership of the
224 commission. The vice chairman and secretary shall be elected by
225 the commission from among the membership of the commission for a
226 term of two (2) years. The vice chairman and secretary may be
227 reelected, and the chairman may be reappointed.

228 (e) The commissioners shall serve without compensation.

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

231 (i) Conviction of a felony in any state court or
232 in federal court; or

233 (ii) Failure to attend three (3) consecutive
234 meetings without just cause.

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

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

242 (h) The commission shall, with input from the
243 municipality, establish a master plan for road and street repair,
244 reconstruction and resurfacing projects based on traffic patterns,
245 need and usage, and for water, sewer and drainage projects.
246 Expenditures of the revenue from the tax authorized to be imposed
247 pursuant to this section shall be made at the discretion of the
248 governing authorities of the municipality if the expenditures
249 comply with the master plan. The commission shall monitor the
250 compliance of the municipality with the master plan.

251 (8) The governing authorities of any municipality that
252 levies the special sales tax authorized under this section are
253 authorized to incur debt, including bonds, notes or other
254 evidences of indebtedness, for the purpose of paying the costs of
255 road and street repair, reconstruction and resurfacing projects
256 based on traffic patterns, need and usage, and to pay the costs of
257 water, sewer and drainage projects in accordance with a master
258 plan adopted by the commission established pursuant to subsection
259 (7) of this section. Any bonds or notes issued to pay such costs
260 may be secured by the proceeds of the special sales tax levied

261 pursuant to this section or may be general obligations of the
262 municipality and shall satisfy the requirements for the issuance
263 of debt provided by Sections 21-33-313 through 21-33-323.

264 (9) This section shall stand repealed from and after July 1,
265 2035.

266 **SECTION 2.** This act shall take effect and be in force from
267 and after July 1, 2023.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 27-65-241, MISSISSIPPI CODE OF 1972,
2 WHICH AUTHORIZES THE LEVY OF A MUNICIPAL SPECIAL SALES TAX IN
3 CERTAIN MUNICIPALITIES, TO PROVIDE THAT IF A MUNICIPALITY LEVYING
4 A TAX UNDER THIS SECTION FAILS TO COMPLY WITH CERTAIN AUDIT OR
5 REPORTING REQUIREMENTS AND DOES NOT REMEDY THE NONCOMPLIANCE
6 WITHIN THIRTY DAYS AFTER RECEIVING WRITTEN NOTICE OF
7 NONCOMPLIANCE, THE DEPARTMENT OF REVENUE SHALL WITHHOLD PAYMENTS
8 OTHERWISE PAYABLE TO THE MUNICIPALITY UNDER THIS SECTION UNTIL THE
9 DEPARTMENT RECEIVES WRITTEN NOTICE THAT THE MUNICIPALITY HAS
10 COMPLIED WITH SUCH REQUIREMENTS; TO PROVIDE A MONTHLY REPORTING
11 REQUIREMENT TO THE MEMBERS OF THE COMMISSION; TO REQUIRE CERTAIN
12 EXPENDITURES FROM THE SPECIAL MUNICIPAL FUND TO BE REIMBURSED TO
13 SUCH FUND; AND FOR RELATED PURPOSES.

SS26\HB1168A.J

Eugene S. Clarke
Secretary of the Senate