

By: Senator(s) Hall, Dearing, Burton, Jordan To: Finance
(24th)

SENATE BILL NO. 2384

1 AN ACT TO AUTHORIZE THE GOVERNING AUTHORITIES OF ANY
2 MUNICIPALITY TO IMPOSE A SPECIAL SALES TAX OF NOT MORE THAN 1% ON
3 THE GROSS PROCEEDS OF ALL SALES OR THE GROSS INCOME OF BUSINESSES
4 IN THE MUNICIPALITY DERIVED FROM ACTIVITIES TAXED AT THE RATE OF
5 7% OR MORE UNDER THE MISSISSIPPI SALES TAX LAW; TO PROVIDE THAT
6 THE SPECIAL SALES TAX SHALL NOT BE LEVIED UNLESS AUTHORIZED BY A
7 MAJORITY OF THE VOTES CAST AT AN ELECTION CALLED AND HELD FOR SUCH
8 PURPOSE; TO AUTHORIZE A MUNICIPALITY TO INCUR AN INDEBTEDNESS IN
9 AN AMOUNT NOT GREATER THAN AN AMOUNT WHOSE DEBT SERVICE IS CAPABLE
10 OF BEING FUNDED BY THE PROCEEDS OF THE SPECIAL SALES TAX; TO
11 PROVIDE THAT THE SPECIAL SALES TAX REVENUE COLLECTED PURSUANT TO
12 SUCH A TAX SHALL BE USED AND EXPENDED BY THE MUNICIPALITY ONLY TO
13 FUND THE CONSTRUCTION OF CERTAIN TRANSPORTATION INFRASTRUCTURE
14 PROJECTS AND/OR OTHER CAPITAL PROJECTS; TO PROVIDE FOR THE
15 DISCONTINUANCE OF THE SPECIAL SALES TAX UPON COMPLETION OF THE
16 FUNDING OF THE CONSTRUCTION FOR WHICH THE TAX WAS LEVIED; TO AMEND
17 SECTION 21-33-303, MISSISSIPPI CODE OF 1972, IN CONFORMITY
18 THERETO; AND FOR RELATED PURPOSES.

19
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

21 SECTION 1. The governing authorities of any municipality are
22 authorized to impose upon all persons as a privilege for engaging
23 or continuing in business or doing business within such
24 municipality, a special sales tax at the rate of not more than one
25 percent (1%) of the gross proceeds of sales or gross income of the
26 business, as the case may be, derived from any of the activities
27 taxed at the rate of seven percent (7%) or more under the
28 Mississippi Sales Tax Law, Section 27-65-1 et seq., as provided
29 hereinafter. The tax levied by this section shall apply to every
30 person making sales, delivery or installations of tangible
31 personal property or services within any county which has adopted
32 the levy herein authorized but shall not apply to sales exempted
33 by Sections 27-65-19, 27-65-101, 27-65-103, 27-65-105, 27-65-107,
34 27-65-109 and 27-65-111 of the Mississippi Sales Tax Law.

35 SECTION 2. (1) The governing authorities of the

36 municipality shall specify in the resolution ordering the election
37 required by subsection (2) of this section, the specific
38 transportation infrastructure projects and/or other capital
39 projects that the revenue collected pursuant to the tax levy may
40 be used and expended to construct.

41 (2) The tax levy authorized herein shall not be made unless
42 authorized by a majority of the votes cast at an election to be
43 called and held for that purpose. Notice of such election shall
44 be given, the election shall be held and the result thereof
45 determined, as far as is practicable, in the same manner as other
46 elections are held in the municipality. At such election, all
47 qualified electors of the municipality may vote. The ballots used
48 at such election shall have printed thereon a brief description of
49 the sales tax, the amount of the sales tax levy, a description of
50 the specific transportation infrastructure projects and/or other
51 capital projects that the tax revenue may be used and expended to
52 construct and the words "FOR THE LOCAL SALES TAX" and "AGAINST THE
53 LOCAL SALES TAX" and the voter shall vote by placing a cross (X)
54 or check mark () opposite his choice on the proposition. When
55 the results of the election have been canvassed by the election
56 commissioners of the municipality and certified by them to the
57 governing authorities, it shall be the duty of such governing
58 authorities to determine and adjudicate whether a majority of the
59 qualified electors who voted in such election voted in favor of
60 the tax. If the election results in favor of the levy, the
61 governing authorities shall adopt a resolution declaring the levy
62 and collection of the tax provided in this act and shall set the
63 first day of the second month following the date of such adoption
64 as the effective date of the tax levy. A certified copy of this
65 resolution together with the result of the election shall be
66 furnished the State Tax Commission not less than thirty (30) days
67 prior to the effective date of the levy. SECTION 3. The

68 governing authorities of any municipality that levies a special
69 sales tax pursuant to this act are hereby authorized to incur
70 indebtedness of the municipality in an aggregate principal amount
71 that is not in excess of an amount whose debt service is capable
72 of being funded by the proceeds of the special sales tax levied
73 pursuant to Section 1 of this act. The indebtedness authorized by
74 this section shall not be considered when computing any limitation
75 of indebtedness of the municipality established by law.

76 SECTION 4. (1) The special sales tax authorized by this act
77 shall be collected by the State Tax Commission, shall be accounted
78 for separately from the amount of sales tax collected for the
79 state in the municipality and shall be paid to the municipality in
80 which collected. Payments to the municipalities shall be made by
81 the State Tax Commission on or before the fifteenth day of the
82 month following the month in which the tax was collected.

83 (2) The proceeds of the special sales tax shall be placed
84 into a separate fund apart from the municipal general fund and any
85 other funds of the municipality, and shall be expended by the
86 municipality solely for the purpose of paying any indebtedness or
87 other obligation the municipality may incur for the transportation
88 infrastructure project and/or other capital projects specified in
89 the resolution ordering the election.

90 (3) All provisions of the Mississippi Sales Tax Law
91 applicable to filing of returns, discounts to the taxpayer,
92 remittances to the State Tax Commission, enforced collection,
93 rights of taxpayers, recovery of improper taxes, refunds of
94 overpaid taxes or other provisions of law providing for imposition
95 and collection of the state sales tax shall apply to the special
96 sales tax authorized by this act except where there is a conflict,
97 in which case the provisions of this act shall control. Any
98 damages, penalties or interest collected for the nonpayment of
99 taxes imposed hereunder, or for noncompliance with the provisions
100 of this act, shall be paid to the municipality in which such

damages were collected 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 any municipality or any payment of the tax to any municipality in error may be adjusted by the State Tax Commission on any subsequent payment to the municipality involved pursuant to the provisions of the Mississippi Sales Tax Law. The State Tax Commission may, from time to time, make such rules and regulations not inconsistent with this act as may be deemed necessary to carry out its provisions, and such rules and regulations shall have the full force and effect of law.

(4) The special sales tax shall be discontinued by the governing authorities of the municipality on the first day of the month immediately succeeding the date any indebtedness incurred pursuant to this act, including interest, is retired, or in the event the municipality incurs no indebtedness, the first day of the month after all obligations for the construction of the transportation infrastructure projects and/or other capital projects have been paid. Any amount remaining in the separate fund containing the proceeds of the special tax not necessary to retire the debt or pay any other obligations, shall be transferred to the municipal general fund.

SECTION 5. 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 September 30, 1984, whichever is greater. In computing such indebtedness, there may be deducted all bonds or other evidences

of indebtedness, heretofore or hereafter issued, for school, water, sewerage systems, gas, and light and power purposes and for the construction of special improvements primarily chargeable to the property benefited, or for the purpose of paying the municipality's proportion of any betterment program, a portion of which is primarily chargeable to the property benefited. However, in no case shall any municipality contract any indebtedness which, when 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 municipality 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 municipality which are subject to annual appropriations therefor, or to bonds heretofore issued by any municipality for school purposes, or to contract obligations in any form heretofore or hereafter incurred by any municipality which are payable exclusively from the revenues of any municipally-owned utility, or to bonds issued by any municipality under the provisions of Sections 57-1-1 through 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 pursuant to Section 3 of Senate Bill No. 2384, 1999 Regular Session.

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

167 section if the governing body of the municipality adopts an order,
168 resolution or ordinance to the effect that the rates paid by the
169 users of such facilities shall be increased to the extent
170 necessary to provide sufficient funds for the payment of the
171 principal of and interest on such bonds as each respectively
172 becomes due and payable as well as the necessary expenses in
173 connection with the operation and maintenance of such facilities.
174 SECTION 6. This act shall take effect and be in force from
175 and after passage.