

By: Representatives Mayo, Burnett

To: Local and Private
Legislation

HOUSE BILL NO. 1762

1 AN ACT TO AMEND CHAPTER 955, LOCAL AND PRIVATE LAWS OF 1996,
2 AS LAST AMENDED BY CHAPTER 1030, LOCAL AND PRIVATE LAWS OF 1999,
3 TO INCREASE THE MEMBERSHIP OF THE TUNICA COUNTY TOURISM COMMISSION
4 BY ONE MEMBER AND TO PROVIDE THAT THE ADDITIONAL MEMBER SHALL BE
5 APPOINTED BY THE BOARD OF SUPERVISORS OF TUNICA COUNTY,
6 MISSISSIPPI; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Chapter 955, Local and Private Laws of 1996, as
9 amended by Chapter 952, Local and Private Laws of 1998, as amended
10 by Chapter 1030, Local and Private Laws of 1999, is amended as
11 follows:

12 Section 1. The following terms as used in this act shall
13 have the meanings ascribed in this section unless the context
14 otherwise clearly requires:

15 (a) "Bar" means any bar, tavern or lounge where
16 alcoholic beverages are sold for consumption on the premises;

17 (b) "Casino" means any casino properly licensed by the
18 Mississippi Gaming Commission and operating in Tunica County,
19 Mississippi;

20 (c) "Commission" means the Tunica County Tourism
21 Commission;

22 (d) "Complimentary sales" or "complimentaries" means
23 activities involving the furnishing or providing of rooms for
24 lodging or sleeping, or the furnishing or providing of food or
25 beverage for the public's consumption, or the furnishing or
26 providing of other services, which any casino performs without
27 cost to the recipient at the point of sale;

28 (e) "County" means Tunica County, Mississippi;

29 (f) "Governing authorities" means the Tunica County
30 Board of Supervisors and the Mayor and Board of Aldermen of the
31 Town of Tunica;

32 (g) "Hotel" or "motel" means any establishment engaged
33 in the business of furnishing or providing rooms intended or
34 designed for lodging or sleeping purposes for transient guests,
35 which establishment consists of ten (10) or more guest rooms, and
36 does not encompass any hospital, convalescent or nursing home or
37 sanitarium or any hotel-like facility operated by or in connection
38 with a hospital or medical clinic providing rooms exclusively for
39 patients and their families;

40 (h) "Prepared food" means food prepared on the premises
41 of a restaurant;

42 (i) "Retail sales" means gross cash receipts (the term
43 does not include complimentaries);

44 (j) "Restaurant" means any place, including hotel and
45 motel dining rooms, casinos, cafeterias, cafes and lunch stands,
46 where prepared food and drink are sold for consumption either upon
47 or off the premises, but does not include small grocery stores or
48 service stations where the sale of prepared food constitutes less
49 than fifty percent (50%) of the gross sales;

50 (k) "Town" means the Town of Tunica, Mississippi.

51 Section 2. (1) There is created the Tunica County Tourism
52 Commission, which shall be a public corporation in perpetuity
53 under its corporate name and in that name shall be a body politic
54 and corporate, with power of perpetual succession, for the purpose
55 of supervising and promoting tourism within Tunica County,
56 Mississippi, and other related activities. The Tourism Commission
57 shall be domiciled in Tunica County, Mississippi.

58 (2) The governing authorities are authorized to contract
59 with the commission for the administrative responsibilities of
60 promoting, creating and administering a tourism program and
61 related activities for the county. The governing authorities are

62 authorized to provide funding, personnel and other support to the
63 commission. The amount and type of funding shall be determined by
64 each governing authority acting jointly or independently by
65 resolution of the governing authority duly adopted and spread on
66 their minutes. The governing authorities are authorized to
67 appropriate funds to the commission.

68 Section 3. (1) The commission shall be governed by a board
69 of commissioners composed of seven (7) members appointed as
70 provided in subsection (2) of this section. The commissioners
71 shall serve without compensation. Except as otherwise provided in
72 subsection (2) of this section, the term of each commissioner
73 shall be for a period of four (4) years.

74 (2) (a) (i) Five (5) members of the commission shall be
75 appointed by the Board of Supervisors of Tunica County, two (2) of
76 whom shall be general managers of casinos located in Tunica
77 County.

78 (ii) From and after July 1, 2005, the Board of
79 Supervisors of Tunica County shall appoint one (1) additional
80 member to the commission. The initial term of this additional
81 member shall end at the same time as the term of the other members
82 serving on the commission at the time of his appointment.

83 (b) One (1) member of the commission shall be appointed
84 by the governing authorities of the Town of Tunica.

85 (3) Any vacancy that occurs shall be filled in the same
86 manner as provided for the original appointment and shall be made
87 for the unexpired term. Each member shall serve until a successor
88 is appointed and qualified. If a vacant position is not filled
89 within sixty (60) days of the vacancy, the Tunica County Board of
90 Supervisors shall appoint a member.

91 (4) Any member of the commission who is absent from three
92 (3) or more consecutive meetings or who is absent from fifty
93 percent (50%) or more of all meetings of the board in any given

94 calendar year shall be deemed to have vacated such position,
95 unless otherwise excused by action of the board of commissioners.

96 (5) The commission shall adopt a set of bylaws which may
97 include provisions they deem appropriate but shall include
98 provisions for the following:

99 (a) Procedures and times for its meetings. Unless
100 otherwise provided therein, the board shall follow Robert's Rules
101 of Order at its meetings. The board shall comply with the state
102 Open Meetings Law, Section 25-41-1 et seq., Mississippi Code of
103 1972;

104 (b) The secretary-treasurer making a monthly report to
105 the board concerning the current operational and financial status
106 of the commission and providing a written copy of such report to
107 the governing authorities; and

108 (c) The board annually causing a full and complete
109 examination of all the books and accounts of the commission to be
110 made by an independent, certified public accountant and providing
111 a copy of the examination to the governing authorities and to the
112 Department of Audit of the State of Mississippi.

113 (6) Before entering upon the duties of office, each
114 commissioner shall take and subscribe to the oath of office
115 required by Section 268, Mississippi Constitution of 1890, and
116 shall give bond in a sum of not less than Five Thousand Dollars
117 (\$5,000.00), conditioned upon the faithful performance of his
118 duties, such bond to be made payable to and approved by the
119 chancery clerk of the county. The cost of all such bonds shall be
120 paid by the commission.

121 (7) Within thirty (30) days after the initial appointments
122 of the commissioners have been made, the commission shall meet and
123 elect from among its membership a chairman, vice chairman and
124 secretary-treasurer and shall adopt a seal and such bylaws, rules
125 and regulations as may be necessary to govern the time, place and
126 manner for holding subsequent meetings of the commission and for

127 the conduct of its business, not inconsistent with the provisions
128 of this act. The commission shall record and retain minutes of
129 all meetings. The commission shall require the necessary and
130 appropriate bond for persons authorized or responsible for the
131 funds of the commission. Any action taken by the commission shall
132 be official at the time the action is taken. Actions may be taken
133 by the commission at any regular, special, recessed or adjourned
134 meeting.

135 (8) The commissioners may be reimbursed for actual expenses,
136 including mileage and travel expenses, whether within or without
137 the State of Mississippi, incurred in the performance of their
138 duties, as authorized by Section 25-3-41, Mississippi Code of
139 1972.

140 (9) The commissioners may employ such personnel and take
141 other acts they deem necessary to carry out the purpose of the
142 commission. The commissioners shall set the level of the
143 compensation to be paid to the commission's employees.

144 Section 4. The commission may take any and all acts
145 necessary to effectuate the purposes of this act.

146 Section 5. The carrying out of the purposes of the
147 commission is in all respects for the benefit of the people of the
148 county and is a public purpose, and the commission will be
149 performing an essential governmental function in the exercise of
150 the powers conferred upon it by this act.

151 Section 6. The commission, in addition to the monies that
152 may be received by it from the governing authorities as taxes as
153 provided for in Section 8 of this act, may accept from any public
154 or private agency, or from any individual, grants for or in aid of
155 the construction of any project and may receive and accept
156 contributions, from any source, of money or property or other
157 things of value to be held, used and applied for the purposes for
158 which such grants or contributions may be made.

159 Section 7. With the prior approval of the Board of
160 Supervisors of Tunica County, the commission may (a) apply for and
161 accept grants and loans on behalf of the governing authorities
162 from the State of Mississippi or the United States of America or
163 any agency thereof and (b) contract with any agency of the State
164 of Mississippi or the United States of America for the development
165 of tourism.

166 Section 8. (1) For the purpose of providing funds for the
167 commission to promote conventions and tourism in Tunica County,
168 the Board of Supervisors of Tunica County may levy and assess
169 against and collect from every person, firm, corporation or other
170 entity operating hotels or motels in Tunica County, an assessment,
171 in addition to all other taxes imposed, which may be cited as a
172 "tourism tax," which shall not exceed a sum equal to three percent
173 (3%) of the gross proceeds of sales from room rentals of all
174 hotels and motels in Tunica County, excluding charges for food,
175 beverage, telephone, laundry and other similar charges. The tax
176 shall not be levied upon or collected from gross proceeds of
177 nontaxable rooms, complimentary rooms or room rentals for day
178 meetings that do not serve as overnight sleeping accommodations.

179 (2) The Board of Supervisors of Tunica County also may
180 impose upon persons doing business within Tunica County, in
181 addition to the tax imposed on hotel and motel rooms under
182 subsection (1) of this section, an assessment in addition to all
183 other taxes imposed, which may also be cited as "tourism tax,"
184 which shall not exceed three percent (3%) of the gross proceeds of
185 restaurants and bars derived from retail sales of prepared food or
186 alcoholic beverages (which includes beer and light wine), or both.
187 This tax shall not be levied upon or collected from gross proceeds
188 from complimentary sales of food or beverage.

189 (3) Before the taxes authorized by this section may be
190 imposed, the Board of Supervisors of Tunica County shall adopt a
191 resolution declaring its intention to levy the taxes and

192 establishing the amount of the tax levies and the date on which
193 the taxes initially will be levied and collected. This date shall
194 be the first day of a month but not earlier than the first day of
195 the second month from the date of adoption of the resolution.
196 Notice of the proposed tax levies shall be published once each
197 week for at least three (3) consecutive weeks in a newspaper
198 having a general circulation in the county. The first publication
199 of the notice shall be made not less than twenty-one (21) days
200 before the date fixed in the resolution on which the board of
201 supervisors proposes to levy the taxes, and the last publication
202 of the notice shall be made not more than seven (7) days before
203 that date. If, within the time of giving notice, twenty percent
204 (20%) or fifteen hundred (1500), whichever is less, of the
205 qualified electors of the county file a written petition against
206 the levy of the taxes, then the taxes shall not be levied unless
207 authorized by a majority of the qualified electors of the county,
208 voting at an election to be called and held for that purpose.
209 Before the effective date of the tax levies approved as provided
210 in this section, the board of supervisors shall furnish to the
211 Chairman of the State Tax Commission a certified copy of the
212 resolution evidencing the tax levies.

213 (4) Persons, firms or corporations liable for the taxes
214 under this section shall add the amount of the tax to the sales
215 price and, in addition thereto, shall collect, insofar as
216 practicable, the amount of the tax due by them from the person
217 receiving the services at the time of payment therefor.

218 (5) All such taxes shall be collected by and paid to the
219 State Tax Commission on a form prescribed by the State Tax
220 Commission in the same manner that state sales taxes are computed,
221 collected and paid. The full enforcement provisions and all other
222 provisions of Chapter 65, Title 27, Mississippi Code of 1972,
223 shall apply as necessary to the implementation and administration
224 of this act.

225 (6) The proceeds of such taxes, less three percent (3%) to
226 be retained by the State Tax Commission to defray the costs of
227 collections, shall be paid to Tunica County on or before the
228 fifteenth day of the month following the month in which collected
229 and shall be disbursed by Tunica County to the commission within
230 thirty (30) days of receipt by Tunica County.

231 (7) The proceeds of such taxes shall not be considered by
232 the county as general fund revenue but shall be dedicated to and
233 used by the commission solely for the purpose of carrying out
234 programs and activities designed to attract visitors, to promote
235 conventions and to promote tourism in the county.

236 (8) The commission shall, at least annually, develop a plan
237 to attract visitors, to promote conventions, to promote tourism to
238 and in Tunica County and to provide for the operation of the
239 commission.

240 Section 9. The books of the commission shall be audited
241 annually by an independent certified public accountant, and the
242 accountant shall make a written report of his audit of the taxes
243 collected under Section 8 of this act to the commission and the
244 governing authorities. The audit shall be made and completed as
245 soon as practicable after the close of the fiscal year, and copies
246 of the report of the audit shall be filed with the county within
247 fifteen (15) days after receipt thereof by the commission.

248 Section 10. This act shall be deemed to be full and complete
249 authority for the exercise of the powers herein granted in the
250 county.

251 Section 11. If any one or more sections, clauses, sentences
252 or parts of this act shall for any reason be questioned in any
253 court and adjudged unconstitutional or invalid, such judgment
254 shall not affect, impair or invalidate the remaining provisions of
255 this act but shall be confined in its operations to the specific
256 provisions so held invalid; and inapplicability or invalidity of
257 any such section, clause, provision or part shall not be taken to

258 affect or prejudice in any way the remaining part or parts of this
259 act.

260 Section 12. The Board of Supervisors of Tunica County shall
261 submit this act, immediately upon approval by the Governor, or
262 upon approval by the Legislature subsequent to a veto, to the
263 Attorney General of the United States or to the United States
264 District Court for the District of Columbia in accordance with the
265 provisions of the Voting Rights Act of 1965, as amended and
266 extended.

267 Section 13. This act shall take effect and be in force from
268 and after the date it is effectuated under Section 5 of the Voting
269 Rights Act of 1965, as amended and extended.

270 **SECTION 2.** This act shall take effect and be in force from
271 and after July 1, 2005.