

By: Senator(s) Hewes, Gollott, Dawkins,  
Cuevas

To: Local and Private;  
Finance

SENATE BILL NO. 3221

1 AN ACT TO AMEND SECTIONS 1 THROUGH 12 OF CHAPTER 1012, LOCAL  
2 AND PRIVATE LAWS OF 2004, TO REVISE THE DEFINITION OF THE TERM  
3 "HOTEL" OR "MOTEL" UNDER THE LAW THAT AUTHORIZES THE BOARD OF  
4 SUPERVISORS OF HARRISON COUNTY TO IMPOSE A SPECIAL TAX ON THE  
5 GROSS PROCEEDS OF ROOM RENTALS OF HOTELS OR MOTELS; TO AUTHORIZE  
6 CERTAIN DAMAGES TO BE IMPOSED IF THE PAYMENTS OF THE SPECIAL TAX  
7 ARE DELINQUENT OR DEFICIENT; AND FOR RELATED PURPOSES.

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

9 SECTION 1. Sections 1 through 12 of Chapter 1012, Local and  
10 Private Laws of 2004, are amended as follows:

11 Section 1. For the purposes of Sections 1 through 12 of this  
12 act:

13 (a) "Board of supervisors" means the Board of  
14 Supervisors of Harrison County, Mississippi.

15 (b) "County" means Harrison County, Mississippi.

16 (c) "Hotel" or "motel" means and includes any  
17 individual or entity engaged in the business of furnishing or  
18 providing one or more \* \* \* rooms intended or designed for  
19 dwelling, lodging or sleeping purposes that at any one time will  
20 accommodate transient guests on a daily or weekly basis and that  
21 are known to the trade as such, and shall include every building  
22 or other structure kept, used, maintained or advertised as, or  
23 held out to the public to be, a place where sleeping  
24 accommodations are supplied for pay or other consideration to  
25 transient or permanent guests or tenants that have not entered  
26 into a bona fide written lease for a term of more than ninety (90)  
27 consecutive days, whether the establishment is known as a hotel,  
28 apartment hotel, condominium, cooperative housing, time-share, bed  
29 and breakfast, rooming house, recreational vehicle park, cabin,

30 inn, tavern, club resort, tourist home, tourist court, motel,  
31 court, motor court, motor lodge or by any other like term,  
32 regardless of the number of rooms, lots, units, suites, spaces or  
33 cabins available. Nursing homes or institutions for the aged or  
34 infirm, as defined in Section 43-11-1, and personal care homes  
35 shall be excluded from the definition of the term "hotel" or  
36 "motel." Any facility or unit defined as a condominium by Section  
37 89-9-5 which is leased for a period of more than ninety (90) days  
38 as evidenced by a bona fide written lease shall be excluded from  
39 the definition of the term "hotel" or "motel."

40 (d) "Bona fide written lease" means a written document  
41 that clearly demonstrates it is intended for the transient guest  
42 to have exclusive use of the leased unit in the hotel or motel.  
43 Factors to be considered in evaluating the intent of the parties  
44 shall include, but not be limited to:

45 (i) The length of the lease, including the  
46 beginning and ending date;

47 (ii) A statement in the lease giving the lessee  
48 complete and exclusive use of the property for the entire duration  
49 of the lease;

50 (iii) Execution of the lease in good faith,  
51 without deceit or fraud;

52 (iv) A sufficient description in the lease of the  
53 leased property;

54 (v) A statement in the lease that the lease  
55 contains the complete and sole agreement;

56 (vi) A statement in the lease that the lessee will  
57 pay an agreed amount of rent;

58 (vii) A statement in the lease containing the due  
59 date, frequency and address for payment of the rent;

60 (viii) A statement in the lease specifying what  
61 conditions will result in early termination of the lease, the

62 rights and obligations of the parties at termination and any  
63 penalties that will result from early termination; and  
64 (ix) Signatures of the lessor and lessee on the  
65 lease.

66 Section 2. (1) Before the issuance of bonds provided for in  
67 Section 6 of this act, the board of supervisors shall levy, assess  
68 and collect from every person, firm, corporation or other entity  
69 operating hotels or motels in the county, a tax, in addition to  
70 all other taxes or assessments now imposed, which shall be equal  
71 to two percent (2%) of the gross proceeds from room rentals of all  
72 hotels or motels in the county.

73 (2) Persons, firms, corporations or other entities liable  
74 for the tax imposed by subsection (1) of this section shall add  
75 the amount of such tax to the room rental and in addition thereto  
76 shall collect, insofar as practicable, the amount of the tax due  
77 from the person renting the room at the time of payment therefor.

78 Section 3. (1) Before any tax authorized under Sections 1  
79 through 12 of this act may be imposed, the governing authorities  
80 shall adopt a resolution declaring its intention to levy the  
81 taxes, setting forth the amount of such tax to be imposed, the  
82 date upon which such taxes shall become effective and calling for  
83 a referendum to be held on the question. The date of the  
84 referendum shall be the first Tuesday after the first Monday in  
85 November 2004. Notice of such intention shall be published once  
86 each week for at least three (3) consecutive weeks in a newspaper  
87 published or having a general circulation in the county, with the  
88 first publication of such notice to be made not less than  
89 twenty-one (21) days before the date fixed in the resolution for  
90 the referendum and the last publication to be made not more than  
91 seven (7) days before the referendum. At the referendum, all  
92 qualified electors of the county may vote, and the ballots used in  
93 such referendum shall have printed thereon a brief statement of  
94 the amount and purposes of the proposed tax levy and the words

95 "FOR THE HOTEL-MOTEL TAX TO FUND THE IMPROVEMENT AND EXPANSION OF  
96 THE MISSISSIPPI COAST COLISEUM AND CONVENTION CENTER" and, on a  
97 separate line, "AGAINST THE HOTEL-MOTEL TAX TO FUND THE  
98 IMPROVEMENT AND EXPANSION OF THE MISSISSIPPI COAST COLISEUM AND  
99 CONVENTION CENTER", and the voters shall vote by placing a cross  
100 (X) or check (√) opposite their choice on the proposition. When  
101 the results of any such referendum shall have been canvassed by  
102 the election commission and certified, the county may levy the  
103 taxes beginning on the first day of the second month following the  
104 referendum, only if at least sixty percent (60%) of the qualified  
105 electors who vote in the election vote in favor of the tax. No  
106 public funds shall be used for the purpose of promoting the  
107 adoption of the referendum and no employee of the county or any  
108 city located in the county, other than elected public officials,  
109 may promote the referendum during business hours.

110 (2) If a referendum has been held under the provisions of  
111 subsection (1) of this section, and the authority of the county to  
112 impose the convention center taxes has been denied by the electors  
113 of the county, a subsequent referendum on the issue may be held on  
114 the first Tuesday after the first Monday in November 2006. If a  
115 second referendum is held, and the authority to impose the  
116 convention center taxes has been denied again by the electors of  
117 the county, no further referendum may be held.

118 Section 4. (1) On or before the fifteenth day of the month  
119 prior to the imposition of the tax authorized in Section 2 of this  
120 act, the board of supervisors shall give written notification to  
121 the Chairman of the State Tax Commission of the date on which the  
122 tax will become effective.

123 (2) The tax shall be collected by and paid to the State Tax  
124 Commission in the same manner as state sales taxes are computed,  
125 collected and paid, and full enforcement provisions and all other  
126 provisions of Chapter 65, Title 27, Mississippi Code of 1972,

127 shall apply as necessary to the implementation of Sections 1  
128 through 12 of this act.

129 (3) Except as otherwise provided in Section 27-3-58, the  
130 revenue from the special tax collected under the provisions of  
131 this section during the preceding month shall be paid to the  
132 county on or before the fifteenth day of each month.

133 (4) The proceeds of such taxes shall be placed into a  
134 separate fund apart from the county general fund and any other  
135 funds of the county, and shall be expended by the county as  
136 provided in Section 10(1) of this act.

137 (5) (a) The State Tax Commission shall provide the county  
138 with written verification of the total tax revenues collected each  
139 month under Sections 1 through 12 of this act, together with all  
140 penalties and interest collected thereon, and the names of all  
141 hotels and motels that paid the special tax. The written  
142 verification shall be delivered to the county at the same time as  
143 the revenue from the special tax is paid to the county pursuant to  
144 subsection (3) of this section.

145 (b) (i) If any part of the special tax required to be  
146 paid by a hotel or motel under Sections 1 through 12 of this act  
147 is deficient or delinquent due to negligence or failure to comply  
148 with the provisions of Sections 1 through 12 of this act or the  
149 rules and regulations of the State Tax Commission without the  
150 intent to defraud, there may be added as damages an amount equal  
151 to ten percent (10%) of the delinquent or deficient taxes for the  
152 first offense, fifteen percent (15%) of the delinquent or  
153 deficient taxes for the second offense, twenty-five percent (25%)  
154 of the delinquent or deficient taxes for the third offense and  
155 fifty percent (50%) of the delinquent or deficient taxes for the  
156 fourth or any subsequent offense, or interest at the rate of one  
157 percent (1%) per month from the date the special tax was due until  
158 paid, or both. Damages shall become payable upon notice and  
159 demand by the commissioner.

160                   (ii) If any part of the special tax required to be  
161 paid by a hotel or motel under Sections 1 through 12 of this act  
162 is deficient or delinquent due to the intentional disregard of the  
163 provisions of Sections 1 through 12 of this act or rules and  
164 regulations of the State Tax Commission, or due to fraud with  
165 intent to evade the law, there shall be added as damages an amount  
166 equal to fifty percent (50%) of the delinquent or deficient taxes,  
167 and in such case the total amount of the tax unpaid shall become  
168 due and payable upon notice and demand by the commissioner, and  
169 interest of one percent (1%) delinquent or deficient tax per month  
170 shall be added from the date the special tax was due until the  
171 date it was paid.

172                   (iii) If the deficient or delinquent tax is not  
173 paid pursuant to the commissioner's notice and it is necessary to  
174 resort to the issuance of a notice of a tax lien or a warrant, the  
175 damages may be increased by fifteen percent (15%) for the first  
176 offense, twenty-five percent (25%) for the second offense and  
177 fifty percent (50%) for any subsequent offense.

178           (6) The tax imposed by Sections 1 through 12 of this act  
179 shall stand repealed on the first day of the month immediately  
180 succeeding the date the payment of the principal of, redemption  
181 premium, if any, and interest on the bonds issued pursuant to  
182 Sections 1 through 12 of this act have been paid in full. Any  
183 revenue from the tax remaining after the payment of the principal  
184 of, redemption premium, if any, and interest on the bonds issued  
185 pursuant to Sections 1 through 12 of this act have been paid in  
186 full shall be transferred to the county general fund.

187           Section 5. The proceeds of the bonds issued pursuant to  
188 Sections 1 through 12 of this act shall be utilized:

189           (a) For the purpose of defraying the cost of  
190 constructing, repairing, equipping, remodeling, enlarging,  
191 expanding or improving the Mississippi Coast Coliseum and  
192 Convention Center; and

193           (b) To retire bonds issued by the county after May 1,  
194 1995, but prior to the effective date of this act, to defray the  
195 cost of expanding the Mississippi Coast Coliseum and Convention  
196 Center.

197           Section 6. The board of supervisors is authorized and  
198 empowered, in its discretion, to issue general obligation bonds of  
199 the county in the aggregate principal amount not to exceed  
200 Sixty-eight Million Dollars (\$68,000,000.00) for the purposes  
201 provided for in Section 5 of this act. As used in Sections 1  
202 through 12 of this act, "bonds" shall be deemed to mean and  
203 include bonds, refunding bonds, notes or certificates of  
204 participation. The full faith and credit of the county shall be  
205 irrevocably pledged for the payment of the principal of and  
206 interest on the bonds.

207           Section 7. Bonds authorized by Sections 1 through 12 of this  
208 act, other than refunding bonds, shall be issued pursuant to  
209 Sections 19-9-1 through 19-9-31 or as may be otherwise provided by  
210 law; however, no election shall be held under the provisions of  
211 Sections 19-9-1 through 19-9-31, upon the question of the issuance  
212 of bonds authorized under Sections 1 through 12 of this act.

213           Section 8. Bonds issued pursuant to Sections 1 through 12 of  
214 this act shall not be deemed indebtedness within the meaning of  
215 Section 19-9-5. Bonds issued pursuant to Sections 1 through 12 of  
216 this act shall be submitted by validation under Sections 31-13-1  
217 through 31-13-11.

218           Section 9. Bonds issued under Sections 1 through 12 of this  
219 act may be refunded at any time and from time to time by the  
220 county pursuant to an authorizing resolution of the board of  
221 supervisors, directing issuance of refunding bonds in accordance  
222 with the "Mississippi Bond Refinancing Act" (Section 31-27-1 et  
223 seq., Mississippi Code of 1972).

224           Section 10. (1) The avails of the tax provided for in  
225 Sections 1 through 12 of this act shall be used solely for the

226 payment of the principal of, redemption premium, if any, and  
227 interest on the bonds, and for the payment of expenses of issuance  
228 thereof or reserve funds therefor.

229 (2) To the extent the proceeds of the tax provided for in  
230 Sections 1 through 12 of this act and any other amounts which may,  
231 from time to time, be available for the payment of the principal  
232 of, redemption premium, if any, and interest on the bonds,  
233 including any available revenues of the project, are not  
234 sufficient for such purpose, the board of supervisors shall levy a  
235 special ad valorem tax upon all of the taxable property within the  
236 county which shall be sufficient, together with other money  
237 available for such purpose, to provide for the payment of the  
238 principal of, redemption premium, if any, and interest on such  
239 bonds according to the terms thereof.

240 Section 11. Sections 1 through 12 of this act shall be  
241 liberally construed for the purposes herein set out, the power  
242 hereby granted shall be deemed to be full and complete authority  
243 for the issuance of bonds under Sections 1 through 12 of this act  
244 and shall be construed as additional, cumulative and supplemental  
245 to any power granted to the county by any general or local and  
246 private act of the Legislature.

247 Section 12. The provisions of Sections 1 through 12 of this  
248 act shall be repealed in the event that two (2) referenda on the  
249 question of imposing convention center taxes have been denied by  
250 the electors of the county. If this event occurs, the Circuit  
251 Clerk of Harrison County shall notify the Chairmen of the Local  
252 and Private Committees of the House of Representatives and Senate  
253 of the Mississippi State Legislature.

254 **SECTION 2.** This act shall take effect and be in force from  
255 and after its passage.