MISSISSIPPI LEGISLATURE REGULAR SESSION 2015

By: Representatives Ellis, Chism

To: Local and Private Legislation

HOUSE BILL NO. 1664

AN ACT TO AMEND CHAPTER 950, LOCAL AND PRIVATE LAWS OF 1994, AS AMENDED BY CHAPTER 1014, LOCAL AND PRIVATE LAWS OF 2004, TO EXTEND THE REPEAL DATE FROM JUNE 30, 2015, TO JUNE 30, 2018, ON THE CITY OF STARKVILLE'S ECONOMIC DEVELOPMENT, TOURISM AND CONVENTION TAX; TO PROVIDE AN INDIRECT REFERENDUM ON THE CONTINUATION OF THE LEVYING OF SUCH TAX; AND FOR RELATED PURPOSES.

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

SECTION 1. Chapter 950, Local and Private Laws of 1994, as amended by Chapter 1014, Local and Private Laws of 2004, is amended as follows:

Section 1. The following words shall have the meaning ascribed to them in this section unless the context clearly indicates otherwise:

(a) "City" means the City of Starkville, Mississippi.

(b) "EDA" means the Oktibbeha County Economic Development Authority, a governmental subdivision of Oktibbeha County, created by the Board of Supervisors of Oktibbeha County, pursuant to Chapter 880, Local and Private Laws of 1984.

(c) "Fiscal year" means the period from October 1 to September 30 of each calendar year.

(d) "Governing authority" means the Mayor and Board of Aldermen of the City of Starkville, Mississippi.

(e) "Gross income" means the total revenue generated by a restaurant from the sale of prepared or prepackaged food, alcoholic and nonalcoholic beverages.

(f) "Restaurant" shall mean and include all places where prepared food and beverages are sold for consumption either upon or off the premises and is to include catering activities for prepared food sold from within the city limits of Starkville, Mississippi. "Restaurant" as defined herein does not include any school, hospital, convalescence or nursing home or any restaurant-like facility operated by or in connection therewith providing food for students, teachers, patients, visitors and their families.

(g) "Starkville Park Commission" shall mean the commission designated by the Starkville City Board of Aldermen charged with the duty and responsibility of acquiring, constructing and managing the various public parks and recreational facilities located within the City of Starkville, Mississippi.

(h) "VCC" means the Visitors and Convention Council organized and created by Chapter 854, Local and Private Laws of 1986.

Section 2. (1) Subject to provisions of subsection (2) of this section, the governing authority is authorized, in its discretion, to provide funds for the purposes provided for in subsection (3) of this section. The tax authorized under this act shall be levied, assessed and collected upon the gross revenue of every restaurant operating within the city and shall be cited as an "Economic Development, Tourism and Convention Tax" and shall be in addition to all other taxes now imposed, as hereinafter provided:

(a) The tax shall be a sum equal to two percent (2%) of the gross income of restaurants derived from retail sales of prepared food, alcoholic and nonalcoholic beverages.

(b) Persons, firms or corporations liable for the tax imposed shall add the amount of the tax to the sales price of goods described in subsection (1)(a) of this section and, in addition, shall collect, insofar as practicable, the amount of the tax due by them from the person receiving the services or goods at the time of payment therefor.

(c) The tax shall be collected and paid to the *** * *** <u>Department of Revenue</u>, on a form to be prescribed by the *** * *** <u>Department of Revenue</u>, in the same manner that state sales taxes are computed, collected and paid; and the full enforcement provisions and all other provisions of the Mississippi Sales Tax Law shall apply as necessary to the implementation and administration of this act.

(d) The proceeds of the tax, less three percent (3%) to be retained by the *** * *** <u>Department of Revenue</u> to defray the cost of collections, shall be paid to the City of Starkville, to be placed into a special fund created apart and separate from any other city fund, on or before the fifteenth day of the month following the month during which the tax is collected and shall on or before the fifteenth day of the following month be delivered to the appropriate entities as provided by subsection (3) of this section.

(2) (a) Before the tax authorized by this act may be imposed, the governing authority shall adopt a resolution declaring its intention to levy the tax and establish the amount of the tax levy and the date on which the tax initially shall be levied and collected. This date shall be the first day of a particular month. The adoption of this tax shall be made by the governing authority by placing the issue upon a ballot to be determined by the qualified electors in the City of Starkville. The tax shall not be levied unless authorized by the vote of a majority of the qualified electors in the city voting at an election to be called and held for that purpose. Before the effective date of the tax levy approved as herein provided, the governing authority shall furnish to the Chairman of the *** * ***Department of Revenue a certified copy of the resolution evidencing such a tax levy.

(b) If the tax levied under this chapter was imposed without a vote of the electorate, the governing authority shall, within sixty (60) days after the effective date of House Bill

No. 1664, 2015 Regular Session, by resolution spread upon its minutes, declare the intention of the governing authority to continue imposing the tax and describe the tax levy including the tax rate, annual revenue collections and the purposes for which the proceeds are used. The resolution shall be published once each week for at least three (3) consecutive weeks in a newspaper having a general circulation in the city. The first publication of the notice shall be made within fourteen (14) days after the governing authority adopts the resolution declaring their intention to continue the tax. If, on or before the date specified in the resolution for filing a written protest, which date shall be not less than forty-five (45) days and not more than sixty (60) days after the governing authority adopts the resolution, twenty percent (20%) or one thousand five hundred (1,500), whichever is less, of the qualified electors of the city file a written petition against the levy of the tax, an election shall be called and held with the election to be conducted at the next special election day as such is defined by Section 23-15-833, Mississippi Code of 1972, occurring more than sixty (60) days after the date specified in the resolution for filing a written protest. The tax shall not be continued unless authorized by a majority of the qualified electors of the city, voting at the election. If the majority of qualified electors voting in the election vote against the imposition of the tax, the tax shall cease to be imposed on the first day of the month following certification of the election results by the election commissioners of the city to the governing authority. The governing authority shall notify the Department of Revenue of the date of the discontinuance of the tax and shall publish sufficient notice thereof in a newspaper published or having a general circulation in the city. If no protest is filed, then the governing authority shall state that fact in their minutes and may continue the levy and assessment of the tax.

This paragraph shall not apply if the revenue from the tax authorized by this chapter has been contractually pledged for the payment of debt incurred prior to the effective date of House Bill No. 1664, 2015 Regular Session, until such time as the debt is satisfied. Once the debt has been satisfied, the governing authority shall, within sixty (60) days, adopt a resolution declaring the intention of the governing authority to continue the tax which shall initiate the procedure described in subsection (a) of this section.

(3) Fifteen percent (15%) of the proceeds derived from the tax collected under this act shall be distributed by the governing authority to the EDA to be expended by the EDA solely for economic and community development. Fifteen percent (15%) of the proceeds derived from the tax collected under this act shall be distributed by the governing authority to the VCC to be expended by the VCC solely to enhance community development and for the expansion of tourism and conventions. Ten percent (10%) of the proceeds

derived from the tax collected under this act shall be retained and expended by the governing authority solely for economic and community development projects, initiatives or opportunities. Forty percent (40%) of the proceeds derived from the tax collected under this act shall be distributed annually to the Starkville Park Commission to be expended for park and recreational improvements. Twenty percent (20%) of the proceeds derived from the tax collected under this act shall be distributed by the governing authority to Mississippi State University to be expended by the university solely to enhance student-related activities.

(4) The proceeds of the tax collected under this act shall not be considered by the city as general fund revenues, but shall be dedicated solely for the purpose of carrying out those programs and activities which are designed by the governing authority through concurrent contracts with the VCC, EDA, Starkville Park Commission and Mississippi State University or through interlocal agreements as provided by Section 17-13-17 of the Mississippi Code of 1972, as amended.

Section 3. (1) The governing authority shall retain the right to approve or disapprove budgets of the agencies funded under this act with respect to funds approved and disbursed to the agencies under this act. A detailed budget of funds requested by the VCC, EDA, the Starkville Park Commission and Mississippi State University shall be submitted to the city with each year's request for funds.

(2) The governing authority shall retain the right to prescribe such requirements with respect to budgeting, establishment of funds, management, record keeping, reporting and audit as may be necessary for the proper protection of funds approved and disbursed under this act.

Section 4. The books of the entities receiving funds disbursed under this act shall be audited annually by an independent certified public accountant or the State Auditor. A copy of each audit report shall be filed with the governing authority within fifteen (15) calendar days after receipt thereof by entities. No expenditure, purchase or transaction shall be made or authorized in violation of the laws of the State of Mississippi governing public purchasing, bidding, contracting or auditing.

Section 5. (1) The first budget of receipts and expenditures under the provisions of this act shall cover the period beginning with the effective date of the tax and ending with the end of the fiscal year and, thereafter, the budget shall be on the fiscal-year basis provided herein.

(2) Accounting for receipts and expenditures of the funds herein described shall be made separately from the accounting of receipts and expenditures of the general fund and other funds of the City of Starkville. The record reflecting receipts and expenditures of the funds described herein shall be audited by an independent certified public accountant and such accountant shall make a written report of the audit to the governing authority.

Such audit shall be made and completed as soon as practicable after the close of the fiscal year and the expenses of such audit may be paid from funds derived under Section 2 of this act.

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Section * * *6. This act shall stand repealed from and after June 30, * * * 2018.

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