

By: Senator(s) Chassaniol

To: Tourism; Finance

SENATE BILL NO. 2463
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 57-26-3, MISSISSIPPI CODE OF 1972, TO
2 INCREASE TO 15 YEARS THE MAXIMUM PERIOD OF TIME THAT THE
3 MISSISSIPPI DEVELOPMENT AUTHORITY MAY MAKE PAYMENTS FROM THE
4 TOURISM PROJECT SALES TAX INCENTIVE FUND TO AN APPROVED
5 PARTICIPANT IN THE TOURISM PROJECT SALES TAX INCENTIVE PROGRAM; TO
6 AMEND SECTION 57-26-1, MISSISSIPPI CODE OF 1972, AS AMENDED BY
7 SENATE BILL NO. 2806, 2012 REGULAR SESSION, TO REVISE THE
8 DEFINITION OF THE TERM "TOURISM PROJECT" FOR PURPOSES OF THE
9 TOURISM PROJECT SALES TAX INCENTIVE PROGRAM TO INCLUDE CERTAIN
10 TOURISM ATTRACTIONS LOCATED WITHIN HISTORIC DISTRICTS; AND FOR
11 RELATED PURPOSES.

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

13 **SECTION 1.** Section 57-26-3, Mississippi Code of 1972, is
14 amended as follows:

15 57-26-3. (1) (a) There is created in the State Treasury a
16 special fund to be known as the "Tourism Project Sales Tax
17 Incentive Fund," into which shall be deposited such money as
18 provided in Section 27-65-75(16). The monies in the fund shall be
19 used for the purpose of making the incentive payments authorized
20 in this section. The fund shall be administered by the MDA.
21 Unexpended amounts remaining in the fund at the end of a fiscal
22 year shall not lapse into the State General Fund, and any interest



23 earned on or investment earnings on the amounts in the fund shall
24 be deposited to the credit of the fund. The MDA may use not more
25 than one percent (1%) of interest earned or investment earnings,
26 or both, on amounts in the fund for administration and management
27 of the incentive program authorized under Sections 57-26-1 through
28 57-26-5.

29 (b) Subject to the provisions of this section,
30 incentive payments may be made by the MDA to an approved
31 participant that incurs approved project costs to locate a tourism
32 project in the state. The payments to an approved participant
33 shall be for eighty percent (80%) of the amount of sales tax
34 revenue collected from the operation of the tourism project, after
35 making the diversions required in Section 27-65-75(7) and (8).
36 The MDA shall make payments to an approved participant on a
37 semiannual basis with payments being made in the months of January
38 and July. The aggregate amount of incentive payments that an
39 approved participant may receive shall not exceed thirty percent
40 (30%) of the approved project costs incurred by the approved
41 participant for the tourism project. Expansions, enlargements or
42 additional investments made by an approved participant will not
43 increase authorized incentive payments certified by the MDA. The
44 MDA shall make the calculations necessary to make the payments
45 provided for in this section. The MDA shall cease making
46 incentive payments to an approved participant on the occurrence of
47 the earlier of:



48 (i) The date that an aggregate amount of thirty
49 percent (30%) of the approved project costs incurred by the
50 approved participant for the tourism project has been paid to the
51 approved participant; or

52 (ii) * * * Fifteen (15) years after the date the
53 tourism project opens for commercial operation.

54 (2) At such time as incentive payments are no longer
55 required to be made to an approved participant, the MDA shall
56 notify the * * * Department of Revenue and the sales tax revenue
57 collected from the tourism project shall no longer be deposited
58 into the Tourism Project Sales Tax Incentive Fund. Any amounts
59 remaining in the fund that were collected from such project shall
60 be transferred to the State General Fund.

61 **SECTION 2.** Section 57-26-1, Mississippi Code of 1972, as
62 amended by Senate Bill No. 2806, 2013 Regular Session, is amended
63 as follows:

64 57-26-1. As used in Sections 57-26-1 through 57-26-5, the
65 following terms and phrases shall have the meanings ascribed in
66 this section unless the context clearly indicates otherwise:

67 (a) "Approved project costs" means actual costs
68 incurred by an approved participant for land acquisition,
69 construction, engineering, design and other costs approved by the
70 Mississippi Development Authority relating to a tourism project;
71 however, for the purposes of a tourism project described in
72 paragraph (d)(iv) of this section, such costs include only those



73 incurred after January 1, 2011, relating to the hotel portion of
74 the project consisting of facilities used for lodging and common
75 areas in that portion of the project. All costs must be verified
76 by an independent third party approved by the MDA. An approved
77 participant shall pay the costs for the third-party verification
78 of costs. Approved project costs may not increase regardless of
79 the actual costs incurred by the project.

80 (b) "Approved participant" means a person, corporation
81 or other entity issued a certificate by the Mississippi
82 Development Authority under Section 57-26-5.

83 (c) "MDA" means the Mississippi Development Authority.

84 (d) "Tourism project" shall include any of the
85 following as may be approved by the MDA:

86 (i) Theme parks, water parks, entertainment parks
87 or outdoor adventure parks, cultural or historical interpretive
88 educational centers or museums, motor speedways, indoor or outdoor
89 entertainment centers or complexes, convention centers,
90 professional sports facilities, spas, attractions created around a
91 natural phenomenon or scenic landscape and marinas open to the
92 public with a minimum private investment of not less than Ten
93 Million Dollars (\$10,000,000.00);

94 (ii) A hotel with a minimum private investment of
95 Forty Million Dollars (\$40,000,000.00) in land, buildings,
96 architecture, engineering, fixtures, equipment, furnishings,
97 amenities and other related soft costs approved by the Mississippi



98 Development Authority, and having a minimum private investment of
99 One Hundred Fifty Thousand Dollars (\$150,000.00) per guest room
100 which amount shall be included within the minimum private
101 investment of Forty Million Dollars (\$40,000,000.00);

102 (iii) A public golf course with a minimum private
103 investment of Ten Million Dollars (\$10,000,000.00);

104 (iv) A full service hotel with a minimum private
105 investment of Fifteen Million Dollars (\$15,000,000.00) in land,
106 buildings, architecture, engineering, fixtures, equipment,
107 furnishings, amenities and other related soft costs approved by
108 the Mississippi Development Authority, and having a minimum
109 private investment of Two Hundred Thousand Dollars (\$200,000.00)
110 per guest room or suite which amount shall be included within the
111 minimum private investment of Fifteen Million Dollars
112 (\$15,000,000.00), a minimum of twenty-five (25) guest rooms or
113 suites, and guest amenities such as restaurants, spas and other
114 amenities as determined by the Mississippi Development Authority;

115 (v) A tourism attraction located within an
116 "entertainment district" as defined in Section 17-29-3 that is
117 open to the public, has seating to accommodate at least forty (40)
118 persons, is open at least five (5) days per week from at least
119 6:00 p.m. until midnight, serves food and beverages, and provides
120 live entertainment at least three (3) nights per week;

121 (vi) A cultural retail attraction * * *;



122 (vii) A tourism attraction located within a
123 historic district where the district is listed in the National
124 Register of Historic Places, where the tourism attraction is open
125 to the public, has seating to accommodate at least forty (40)
126 persons, is open at least five (5) days per week from at least
127 6:00 p.m. until midnight, serves food and beverages, and provides
128 live entertainment at least three (3) nights per week.

129 The term "tourism project" does not include any licensed
130 gaming establishment owned, leased or controlled by a business,
131 corporation or entity having a gaming license issued under Section
132 75-76-1 et seq.; however, the term "tourism project" may include a
133 project described in this paragraph (d) that is owned, leased or
134 controlled by such a business, corporation or entity or in which
135 the business, corporation or entity has a direct or indirect
136 financial interest if the project is in excess of development that
137 the State Gaming Commission requires for the issuance or renewal
138 of a gaming license and is not part of a licensed gaming
139 establishment in which gaming activities are conducted.

140 The term "tourism project" does not include any facility
141 within the project whose primary business is retail sales or any
142 expansions of existing projects; however, pro shops, souvenir
143 shops, gift shops, concessions and similar retail activities, and
144 cultural retail attractions may be included within the definition
145 of the term "tourism project." In addition, retail activities,
146 regardless of whether the primary business is retail sales, that



147 are part of a resort development may be included within the
148 definition of "tourism project."

149 (e) "Resort development" means a travel destination
150 development with a minimum private investment of One Hundred
151 Million Dollars (\$100,000,000.00) and which consists of (* * *i)
152 a hotel with a minimum of two hundred (200) guest rooms or suites
153 and having a minimum private investment of Two Hundred Thousand
154 Dollars (\$200,000.00) per guest room or suite, and (* * *ii)
155 guest amenities such as restaurants, golf courses, spas, fitness
156 facilities, entertainment activities and other amenities as
157 determined by the MDA. Not more than an amount equal to forty
158 percent (40%) of the private investment required by this paragraph
159 may be expended on facilities to house retail activity.

160 (f) "Cultural retail attraction" means a project which
161 combines destination shopping with cultural or historical
162 interpretive elements specific to Mississippi with a minimum
163 private investment of Fifty Million Dollars (\$50,000,000.00) in
164 land, buildings, architecture, engineering, fixtures, equipment,
165 furnishings, amenities and other related soft costs approved by
166 the Mississippi Development Authority and which:

167 (i) Is located in a qualified resort area as
168 defined in Section 67-1-5;

169 (ii) Is a part of a master-planned development
170 with a total investment of not less than One Hundred Million
171 Dollars (\$100,000,000.00) in land, buildings, architecture,



172 engineering, fixtures, equipment, furnishings, amenities and other
173 related soft costs approved by the Mississippi Development
174 Authority;

175 (iii) Has a minimum of fifty (50) retail tenants
176 with a minimum of three hundred thousand (300,000) square feet of
177 heated and cooled space; and

178 (iv) Has a minimum investment of One Million
179 Dollars (\$1,000,000.00) in one or more of the following:

180 1. Art created by Mississippi artists or
181 portraying themes specific to Mississippi;

182 2. Memorabilia, signage or historical markers
183 which serve to promote the State of Mississippi;

184 3. Audio/visual equipment used to showcase
185 Mississippi artists;

186 4. A minimum of one thousand two hundred and
187 fifty (1,250) square feet of heated and cooled space available to
188 the Mississippi Development Authority or its assignee for a period
189 of not less than ten (10) years.

190 (g) "Retail activity" means businesses whose inventory
191 consists primarily of upscale name brands or their equivalent as
192 determined by the MDA.

193 (h) "State" means the State of Mississippi.

194 **SECTION 3.** This act shall take effect and be in force from
195 and after July 1, 2013.

