2/20/19 4:34 P.M.

Chapter No. 902
19/HR31/R164PH
KTW / LL

# *HOUSE BILL NO. 653*

Originated in House _____ Clerk

HOUSE BILL NO. 653

AN ACT TO AMEND CHAPTER 1017, LOCAL AND PRIVATE LAWS OF 2004, AS LAST AMENDED BY CHAPTER 918, LOCAL AND PRIVATE LAWS OF 2015, TO EXTEND THE REPEAL DATE ON THE AUTHORITY OF THE GOVERNING AUTHORITIES OF THE CITY OF BALDWYN TO LEVY A TAX UPON THE GROSS PROCEEDS OF HOTELS AND MOTELS DERIVED FROM ROOM RENTALS AND UPON THE GROSS PROCEEDS OF SALES OF RESTAURANTS AND SALES OF PREPARED FOOD AT CONVENIENCE STORES, WHICH SHALL BE USED TO PROMOTE TOURISM AND TO ENCOURAGE RETIRED PERSONS TO REMAIN IN OR RELOCATE TO THE BALDWYN AREA; AND FOR RELATED PURPOSES.

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

**SECTION 1.** Chapter 1017, Local and Private Laws of 2004, as amended by Chapter 921, Local and Private Laws of 2008, as amended by Chapter 911, Local and Private Laws of 2012, as amended by Chapter 918, Local and Private Laws of 2015, is amended as follows:

Section 1. As used in this act, the following terms shall have the meanings ascribed to them in this section unless a different meaning is clearly indicated by the context in which they are used:

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

(b) "Governing authorities" means the governing authorities of the City of Baldwyn, Mississippi.

(c) "Hotel" or "motel" means any establishment engaged in the business of furnishing or providing six (6) or more rooms intended or designed for dwelling, lodging or sleeping purposes to transient guests. The term "hotel" or "motel" does not include any hospital, convalescent or nursing home or sanitarium, or any hotel-like facility operated by or in connection with a hospital or medical clinic providing rooms exclusively for patients and their families.

(d) "Restaurant" or "convenience store" means all places where prepared food and beverages are sold for consumption, whether such food is consumed on the premises or not. The terms "restaurant" and "convenience store" do not include any school, hospital, convalescent or nursing home, or any restaurant-like facility operated by or in connection with a school, hospital, medical clinic, convalescent or nursing home providing food for students, patients, visitors or their families.

Section 2. (1) For the purpose of providing funds to promote tourism and to encourage retired persons to remain in or relocate to the Baldwyn area, the governing authorities are authorized, in their discretion, to levy and collect from the following persons a tax, which shall be in addition to all of the taxes and assessments imposed. The tax shall be on the following persons:

(a) A tax upon every person, firm or corporation operating a hotel or motel in the City of Baldwyn, at a rate not to exceed two percent (2%) of the gross proceeds derived from room rentals; and

(b) A tax upon every person, firm or corporation operating a restaurant or convenience store in the City of Baldwyn, where prepared food and drink is sold to the public, at a rate not to exceed two percent (2%) of the gross proceeds of the sales of such restaurant or the sales of prepared food at a convenience store.

(2) Persons, firms or corporations liable for the levy imposed under subsection (1) of this section shall add the amount of the levy to the sales price of the rooms and products set out in subsection (1) of this section and shall collect, insofar as is practicable, the amount of the tax due by them from the person receiving the services or product at the time of payment therefor.

(3) The tax shall be collected by and paid to the Department of Revenue on a form prescribed by the Department of Revenue in the manner that state sales taxes are computed, collected and paid; and full enforcement provisions and all other provisions of Chapter 65, Title 27, Mississippi Code of 1972, shall apply as necessary to the implementation and administration of this act.

(4) The proceeds of the tax, less three percent (3%) thereof which shall be retained by the Department of Revenue to defray the cost of collection, shall be paid to the governing authorities on

or before the fifteenth day of the month following the month in which collected.

(5) The proceeds of the tax shall not be considered by the City of Baldwyn as general fund revenues but shall be dedicated to and expended solely for the purposes specified in this section.

Section 3. (1) Before the tax authorized by this act may be imposed, the governing authorities shall adopt a resolution declaring their intention to levy the tax, setting forth the amount of such tax and establishing the date on which the tax initially shall be levied and collected. Notice of the proposed tax shall be published once each week for at least three (3) consecutive weeks in a newspaper having a general circulation in the City of Baldwyn. The first publication of the notice shall be made not less than twenty-one (21) days before the date fixed in the resolution on which the tax initially is to be levied and collected, and the last publication of the notice shall be made not more than seven (7) days before such date. If, within the time of giving notice, twenty percent (20%) or fifteen hundred (1500), whichever is less, of the qualified electors of the City of Baldwyn, file a written petition against the levy of such tax, then the tax shall not be levied unless authorized by a sixty percent (60%) majority of the qualified electors of the City of Baldwyn, voting at an election to be called and held for that purpose. At least thirty (30) days before the effective date of

the tax, the governing authorities shall furnish to the Department of Revenue a certified copy of the resolution evidencing such tax.

(2) If the tax levied under this chapter was imposed without a vote of the electorate, the governing authorities shall, within sixty (60) days after the effective date of Senate Bill No. 2241, 2012 Regular Session, by resolution spread upon its minutes, declare the intention of the governing authorities 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 a week for at least three (3) consecutive weeks in a newspaper published or having a general circulation in the municipality, with the first publication to be made within fourteen (14) days after the governing authorities adopt 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 that forty-five (45) days and not more than sixty (60) days after the governing authorities adopt the resolution, twenty percent (20%) or fifteen hundred (1500), whichever is less, of the qualified electors of the municipality file a written protest against the imposition of the tax, then an election upon the levy and assessment of the tax shall be called and held as in the manner provided for in subsection (1) of this section, 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. If the requisite number of qualified electors 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 municipality to the governing authorities. The governing authorities 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 municipality. If no protest is filed, then the governing authorities shall state that fact in their minutes and may continue the levy and assessment of the tax.

This subsection (2) 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 Senate Bill No. 2241, 2012 Regular Session, until such time as the debt is satisfied. Once the debt has been satisfied, the governing authorities, shall within sixty (60) days, adopt a resolution declaring the intention of the governing authorities to continue the tax which shall initiate the procedure described in subsection (1) of this section.

Section 4. Accounting for receipts and expenditures of the funds described in this act must be made separately from the accounting of receipts and expenditures of the general fund and

any other funds of the City of Baldwyn. The records reflecting the receipts and expenditures of the funds prescribed in this act shall be audited annually by an independent certified public accountant, and the accountant shall make a written report of his audit to the governing authorities. The audit shall be made and completed as soon as practicable after the close of the fiscal year, and expenses of such audit shall be paid from the funds derived under this act.

Section 5. Any collections of revenue, made under this chapter from and after July 1, 2018, and until the effective date of House Bill No. 653, 2019 Regular Session, are hereby ratified and confirmed and the expenditures that may have been made by the city of such revenue that was paid to the city are hereby ratified and confirmed. Any of such revenue, if applicable, paid to the city may be expended by the city for the purposes authorized in this chapter.

Section * * * 6. The provisions of this act shall be repealed from and after July 1, * * * 2023.

**SECTION 2.** This act shall retroactively take effect and be in force from and after July 1, 2018.

PASSED BY THE HOUSE OF REPRESENTATIVES
January 21, 2019

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
February 12, 2019

PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR

GOVERNOR

Feb. 20, 2019 4:34pm