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Report to the Mississippi Legislature

## A Review of Local Special Tax Levies

## **PEER: The Mississippi Legislature's Oversight Agency**

The Mississippi Legislature created the Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER Committee) by statute in 1973. A joint committee, the PEER Committee is composed of seven members of the House of Representatives appointed by the Speaker and seven members of the Senate appointed by the Lieutenant Governor. Appointments are made for four-year terms, with one Senator and one Representative appointed from each of the U.S. Congressional Districts and three at-large members appointed from each house. Committee officers are elected by the membership, with officers alternating annually between the two houses. All Committee actions by statute require a majority vote of four Representatives and four Senators voting in the affirmative.

Mississippi's constitution gives the Legislature broad power to conduct examinations and investigations. PEER is authorized by law to review any public entity, including contractors supported in whole or in part by public funds, and to address any issues that may require legislative action. PEER has statutory access to all state and local records and has subpoena power to compel testimony or the production of documents.

PEER provides a variety of services to the Legislature, including program evaluations, economy and efficiency reviews, financial audits, limited scope evaluations, fiscal notes, special investigations, briefings to individual legislators, testimony, and other governmental research and assistance. The Committee identifies inefficiency or ineffectiveness or a failure to accomplish legislative objectives, and makes recommendations for redefinition, redirection, redistribution and/or restructuring of Mississippi government. As directed by and subject to the prior approval of the PEER Committee, the Committee's professional staff executes audit and evaluation projects obtaining information and developing options for consideration by the Committee. The PEER Committee releases reports to the Legislature, Governor, Lieutenant Governor, and the agency examined.

The Committee assigns top priority to written requests from individual legislators and legislative committees. The Committee also considers PEER staff proposals and written requests from state officials and others.

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# A Review of Local Special Tax Levies

## Executive Summary

### Introduction

Although MISS. CODE ANN. Sections 19-3-40(3)(a) and 21-17-5(2)(a) (1972) prohibit county and municipal governing authorities from levying taxes of any kind or increasing the levy of any authorized tax unless specifically authorized by another state statute, a county or municipal governing authority wanting to utilize an additional funding source for tourism or other development may present a request to the Legislature for a bill providing specific authority for such taxation within its jurisdiction.

Commonly, special tax levy legislation will specify a stated purpose, tax jurisdiction, tax rate, and covered businesses and individuals; provide for administrative organization and oversight; and often assign a repealer date. In Mississippi these taxes have been levied for the following general purposes:

- promotion of the locality;
- tourism development;
- recreation development;
- fostering retirement communities;
- local and/or regional infrastructure debt service for acquisition, repair, or upgrades;
- business attraction in the form of industrial park or convention center construction; and
- indebtedness of municipalities.

### Background

Since 1972, and as of July 1, 2018, 88 local tourism and economic development taxes are currently authorized by the Legislature, with 82 approved locally and in effect throughout the state. Entities conducting business in lodging, prepared food and beverage, and alcohol sales are subject to these taxes.

In total, for federal fiscal year<sup>1</sup> 2017, special tax levies generated more than \$96 million. This includes county and city jurisdictions and joint initiatives.

Businesses subject to special tax levies remit these collections to the Department of Revenue as part of their normal sales tax

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<sup>1</sup>Counties and municipalities follow the federal government fiscal calendar, October 1–September 30.

submissions, whereupon the DOR will process these filings and remit the proceeds, minus a 3% administrative processing fee, to the appropriate local governing authority. If required under the provisions of a special tax levy, these funds will be transferred to a designated administrative body (such as a board, partnership, or commission).

Although state laws and regulations do not give the Mississippi Development Authority the power or responsibility to oversee or coordinate the programs or activities of local tourism and economic development entities, in its promotion of the state collectively, the MDA effectively bolsters the tourism and economic development efforts of local jurisdictions.

## **Observations on Local Special Tax Levies in the State**

As previously noted, since 1972 and through June 30, 2018, the Legislature has granted authority for the implementation of 88 local special tax levies for local tourism and economic development taxes:

- 74 special tax levies imposed on municipalities, and
- 14 special tax levies imposed on a countywide basis.

However, only 82 tax levies were being collected as of that same date (Appendix A, page 31). During the 2018 Regular Legislative Session, the Legislature authorized six new special tax levies for municipalities, but until all actions necessary for approval are taken at the local level, i.e., ratification by the local governing authority or by popular referendum, these levies will not be enforced, collected, and remitted to the Department of Revenue. See Appendix B, page 47.

Local tourism and economic development taxes contain considerable individualization in their authorizing legislation, local focus, and means of collection. Although they share a common basic legislative construction, they can be structured to include provisions that address locality-specific requests. When implemented, these taxes can be expended, if allowed under authorizing statute, by governing authorities for such goals as quality of life improvements in the community, development of economic areas/industrial parks, or securing bonds for capital-spending projects.

In review of the 82 local special tax levies being collected in the state as of July 1, 2018, PEER observed characteristics in structure and content that could impede a jurisdiction's success in meeting its objectives, including an inability to articulate the locality's specific goal and the amount of resources needed or repealer dates, as well as inexact methods for making budget and expenditure projections and a lack of metrics to assess the effectiveness of these tax levies.

State law does not provide for procedures, nor do local governing authorities have a method, for determining whether all businesses are collecting and remitting the correct amount of special tax levy

revenue to the Department of Revenue for distribution to the specified local governing authority.

No specific procedures exist—at state or local levels—to ensure a local business’s accurate collection and remittance of special tax levies to the Department of Revenue and distribution to the locality for its specified purposes.

The only state-level control in place to determine whether businesses are remitting the correct amount of tax revenues is the DOR’s normal sales tax audit program; however, it audits only 3% of registered businesses statewide each year in normal sales tax audits, and, of these audits, approximately 85% generate a noncompliant result. This may indicate that local governing authorities are not receiving all funds that should be generated under the special tax levies.

Furthermore, each local tourism and economic development tax’s authorizing legislation specifies broad areas for which expenditures may be used. Beyond these broad specifications, local governing authorities must establish internal controls to ensure proper expenditure of collected funds and audit of funds collected.

## Conclusion

PEER conducted this review when legislators questioned whether a more uniform or efficient method might be authorized to support localities in tourism and economic development efforts.

Rather than authorizing legislation by locality, the Legislature could choose to provide general law authority for the creation of tourism and development taxes or authorize a uniform general levy for the support of communities.

The current practice of enacting local and private legislation to support tourism and development produces considerable variation in the types of establishments required to pay taxes and the rates charged. Other differences also occur regarding the management and oversight of such funds. Should the Legislature find this lack of uniformity problematic, or consider the committee time spent on considering individual local and private bills to be inefficient, there are at least two alternatives that would obviate the necessity of enacting local and private legislation.

In the past the Legislature has enacted general legislation enabling counties or localities to establish such entities as economic development districts and fire protection districts supported by dedicated levies. The Legislature could pass general legislation on this subject and make it applicable to local tourism taxes and administration originally adopted after the passage of the general law or to any levy that repeals after the enactment of the general law.

This approach places the burden on the Legislature to enact in general law legislation addressing all pertinent issues associated with the levying, management, and use of sales tax receipts, including clear definitions of terms, taxable businesses, tax structure, custody of funds, spending authority and whether a board or commission will be necessary to direct these

expenditures, and parameters for what localities can spend these taxes on.

However, local and private legislation can be tailored to the unique needs of a locality. Use of local and private legislation to authorize levies and create the management responsibilities for the funds results in local communities receiving the mixture of revenue and accountability they require.

Alternatively, the Legislature could consider repealing provisions for local tourism and economic development taxes and allow for the passage of a general local sales tax option that would allow city or county governing authorities to implement special purpose taxes without legislative authorization. Localities could utilize the funds generated from these local sales taxes for whatever residents deemed appropriate (e.g., infrastructure, tourism and recreation, or economic development). In addition, this would represent a more transparent tax environment for local consumers than the current format, which purports to tax tourists but can also tax residents.

Although such taxes could benefit localities considerably, they are not without drawbacks. Several municipalities in the state attract large numbers of people who pay sales taxes for items purchased at large regional malls and shopping centers. Such purchasers often utilize little in the way of local services, yet bear a considerable portion of the burden for paying for general city services. This could make general sales tax a potentially contentious issue if the Legislature considered its adoption.

Further, if such taxes were to be levied, it would also appear necessary to provide that no local government should be allowed to enact such a tax unless it takes all legal action necessary to terminate collection of any tourism tax for which it has obtained authority to levy.

Passage of a general law or, if current practice continues, establishment of provisions for uniformity in budget oversight, repealer requirements, and key language would provide for more streamlined and consistent imposition of local tourism and economic development taxes.

**For more information or clarification, contact:**

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**Exhibit 1. Net Special Tax Proceeds Remitted to Counties and Cities, Federal Fiscal Years 2015–2017\***

| <b>COUNTY</b>  | <b>FFY 2015</b> | <b>FFY 2016</b> | <b>FFY 2107</b> |
|--|-----------------|-----------------|-----------------|
| Coahoma County Tourism & Convention Tax  | \$ 406,865.87   | \$ 401,568.91   | \$ 395,896.23   |
| Desoto County Convention Tourist Promotion Tax   | 7,012,491.32    | 8,361,760.38    | 8,545,836.08    |
| Hancock County Tourism Tax   | 123,287.95      | 126,376.24      | 132,230.54      |
| Harrison County Coliseum-Convention Center Tax   | 3,737,595.22    | 4,103,300.93    | 4,150,328.29    |
| Lauderdale County Tourism Commission Tax   | 785,820.78      | 806,190.59      | 785,043.83      |
| Lowndes County Special Tax   | 151,818.98      | 108,300.67      | 108,143.41      |
| Montgomery County Coliseum & Tourism Tax   | 41,545.29       | 46,210.93       | 109,005.52      |
| Rankin County Tourism Tax  | 942,760.20      | 1,049,560.88    | 1,037,527.94    |
| Stone County Economic Development & Tourism Tax  | 408,984.54      | 401,578.69      | 443,278.04      |
| Tishomingo County Promotion Tax  | 60,866.46       | 23,746.34       | 21,409.41       |
| Tunica County Special Tax  | 1,700,879.53    | 1,702,938.83    | 1,651,979.49    |
| Warren County Tourism Promotion Tax  | 1,159,870.53    | 1,214,990.67    | 1,166,723.75    |
| Washington County Board of Supervisors   | 220,384.87      | 229,023.88      | 209,929.77      |
| Washington County Tourist Promotion Tax  | 702,612.16      | 686,139.46      | 719,380.23      |
| Yazoo County Tourist & Convention Tax  | 462,758.93      | 469,559.71      | 533,338.35      |
| <b>CITY</b>  | <b>FFY 2015</b> | <b>FFY 2016</b> | <b>FFY 2107</b> |
| Aberdeen Tourism & Convention Tax  | 77,523.56       | 88,096.20       | 89,971.90       |
| Baldwyn Tourism Tax  | 141,118.55      | 139,841.50      | 139,594.30      |
| Batesville Tourism & Economic Development Tax  | 1,189,437.58    | 1,240,737.86    | 1,273,730.68    |
| Bay Springs Hotel & Motel Tax  | 3,679.92        | 3,953.12        | 2,901.36        |
| Booneville Tourism, Parks & Recreation Tax   | -               | -               | 1,884.16        |
| Brandon Tourism, Parks & Recreation Tax & Brandon Amphitheatre & Ancillary Improvement Tax | 977,435.79      | 1,058,775.55    | 1,081,258.76    |
| Brookhaven Tourism, Parks & Recreation Tax   | 91,274.89       | 86,866.97       | 148,556.24      |
| Byhalia Tourism, Parks & Recreation Tax  | 15,346.17       | 13,168.58       | 2,198.00        |
| Byram Tourism Parks & Recreation Tax   | -               | -               | 3,342.06        |
| Canton Tourist Convention Tax  | 641,777.01      | 623,414.48      | 615,188.44      |
| Carthage Recreation & Tourism Tax  | -               | -               | 230,429.13      |
| Cleveland Economic Development Tax   | 774,536.22      | 798,589.79      | 868,028.01      |
| Clinton Tourism Tax  | 123,805.16      | 169,617.27      | 188,120.55      |
| Columbus Tourism   | 1,952,886.21    | 2,121,045.16    | 2,094,965.64    |
| Como Special Tax   | -               | 424.20          | 435.18          |
| Como Tourism Parks & Recreation Tax  | 11,830.59       | 70,471.62       | 71,365.84       |
| Corinth Area Tourism Promotion Tax   | 1,268,166.63    | 1,342,688.88    | 1,345,113.97    |
| Florence Economic Development & Recreational Facilities Tax                                | 280,635.11      | 322,865.43      | 318,380.81      |
| Flowood Tourist & Recreation Tax   | 2,285,004.16    | 2,653,653.59    | 2,724,798.94    |
| Fulton Tourism Tax   | 57,009.54       | 58,722.07       | 66,694.61       |
| Greenwood Tourist & Convention Tax   | 425,646.68      | 430,837.22      | 449,051.92      |
| Grenada Tourism Tax  | 532,641.12      | 523,101.16      | 513,240.49      |
| Hattiesburg Tourism & Convention Promotion Tax   | 5,432,650.67    | 5,499,854.42    | 5,831,113.78    |
| Hernando Tourism & Economic Development Tax  | 21,585.10       | 36,369.19       | 35,338.32       |
| Holly Springs Recreation & Public Improvement Promotion Tax                                | 314,821.97      | 335,626.80      | 346,200.83      |

| CITY (cont'd)  | FFY 2015               | FFY 2016               | FFY 2107               |
|--|------------------------|------------------------|------------------------|
| Horn Lake Special Tax  | -                      | 235,387.90             | 271,229.65             |
| Horn Lake Tourism & Economic Development Tax                     | 293,527.63             | 65,428.83              | -                      |
| Houston Parks & Recreation & Community Economic Development Tax  | -                      | -                      | 187,332.11             |
| McComb Tourism, Parks & Recreation Tax                           | 308,929.06             | 233,405.31             | 235,459.33             |
| Meridian Southern Arts & Entertainment Tax                       | -                      | -                      | 2,023,318.66           |
| Moss Point Tourism Tax   | 291,314.63             | 266,595.79             | 258,359.42             |
| Natchez Convention & Tourism Tax                                 | 1,301,169.90           | 1,338,222.13           | 1,301,033.12           |
| Natchez Special Tax  | 385,755.80             | 403,119.89             | 379,083.11             |
| New Albany Tourism Tax   | 701,684.31             | 748,106.41             | 838,731.42             |
| Newton Special Tax   | 9,381.25               | 10,149.70              | 10,951.01              |
| Ocean Springs Restaurant Tax                                     | 1,185,848.36           | 1,261,198.34           | 1,307,390.22           |
| Ocean Springs Tourism & Economic Development Tax                 | 35,751.15              | 39,417.88              | 47,153.81              |
| Oxford Stadium Construction Tax                                  | 2,554,091.87           | 2,847,759.02           | 3,149,174.82           |
| Oxford Tourism & Economic Development Tax                        | 302,942.58             | 417,725.73             | 466,379.26             |
| Pascagoula Tourism, Economic Development, Parks & Recreation Tax | 157,134.93             | 161,151.18             | 747,611.41             |
| Pearl Restaurant Tax   | 776,270.79             | 743,139.22             | 674,236.13             |
| Philadelphia Tourism & Economic Development Tax                  | 105,363.48             | 101,709.53             | 91,273.02              |
| Picayune Tourism & Economic Development Tax                      | 462,273.38             | 473,422.17             | 461,140.07             |
| Pontotoc Tourism & Retirement Tax                                | 387,361.92             | 402,058.99             | 436,213.86             |
| Richland Economic & Community Development Tax                    | 401,850.96             | 404,183.76             | 412,718.31             |
| Ridgeland Tourist & Convention Tax                               | 1,610,514.16           | 1,650,940.96           | 1,673,739.79           |
| Ripley Tourism Tax   | 276,791.51             | 287,832.42             | 306,241.03             |
| Sardis Tourism Tax   | 96,836.96              | 107,138.05             | 116,361.90             |
| Senatobia Tourism, Parks & Recreation Tax                        | 411,542.72             | 455,252.05             | 466,045.46             |
| Southaven Tourism, Convention & Restaurant Tax                   | 2,212,540.25           | 1,900,904.76           | 1,624,382.92           |
| Starkville Tourism & Convention Tax                              | 1,836,425.64           | 1,952,290.60           | 1,974,991.48           |
| Tupelo Convention & Tourism Promotion Tax                        | 4,001,652.83           | 4,223,696.24           | 4,341,273.30           |
| Tupelo Water Facilities Tax                                      | 3,190,115.99           | 3,428,002.79           | 3,402,342.14           |
| Vicksburg Convention Tourism Promotion Tax                       | 518,811.93             | 577,380.49             | 535,663.56             |
| West Point Special Tax   | 251,419.42             | 251,464.51             | 280,239.05             |
| Winona Recreation, Tourism, Parks & Economic Development Tax     | -                      | -                      | 165,285.74             |
| JOINT  | FFY 2015               | FFY 2016               | FFY 2107               |
| MS Gulf Coast Convention & Visitors Bureau Tax                   | 3,057,861.16           | 3,844,059.98           | 3,935,094.32           |
| Starkville-Oktoberfest Tourism Tax                               | 303,269.48             | 300,866.82             | 287,824.03             |
| West Point-Clay County Special Tax                               | 251,100.81             | 249,063.26             | 280,236.92             |
| <b>TOTAL</b>   | <b>\$86,861,098.50</b> | <b>\$91,838,877.02</b> | <b>\$96,467,992.55</b> |

\*NOTE: The Department of Revenue consolidates taxes within jurisdictions (e.g., Brandon) for recordkeeping purposes. Therefore this list may not reflect all taxes in effect for FFY 2017.

SOURCE: Mississippi Department of Revenue.



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