

By: Representative Weathersby

To: Ways and Means

HOUSE BILL NO. 673

1 AN ACT TO AMEND SECTION 27-65-107, MISSISSIPPI CODE OF 1972,
2 TO EXEMPT FROM SALES TAX SALES OF ELECTRICITY TO ANY BUSINESS
3 ESTABLISHMENT IN THE STATE; TO AMEND SECTION 27-65-19, MISSISSIPPI
4 CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

6 SECTION 1. Section 27-65-107, Mississippi Code of 1972, is
7 amended as follows:

8 27-65-107. The exemptions from the provisions of this
9 chapter which relate to utilities or which are more properly
10 classified as utility exemptions than any other exemption
11 classification of this chapter shall be confined to those persons
12 or property exempted by this section or by provisions of the
13 Constitutions of the United States or the State of Mississippi.
14 No utility exemption as now provided by any other section shall be
15 valid as against the tax herein levied. Any subsequent utility
16 exemption from the tax levied hereunder shall be provided by
17 amendment to this section.

18 No exemption provided in this section shall apply to taxes
19 levied by Section 27-65-15 or 27-65-21, Mississippi Code of 1972.

20 The tax levied by this chapter shall not apply to the
21 following:

22 (a) Sales and rentals of locomotives, rail rolling
23 stock and materials for their repair, locomotive water, when made
24 to a railroad whose rates are fixed by the Interstate Commerce
25 Commission or the Mississippi Public Service Commission.

26 (b) Rentals of manufacturing machinery to a
27 manufacturer or custom processor where such manufacturer or custom

28 processor is engaged in, and such machinery is used in, the
29 manufacture of containers made from timber or wood for sale. The
30 tax, likewise, shall not apply to replacement or repair parts of
31 such machinery used in such manufacture.

32 (c) Sales of tangible personal property and services to
33 nonprofit water associations or corporations in which no part of
34 the net earnings inures to the benefit of any private shareholder,
35 group or individual. Only sales of property or services which are
36 ordinary and necessary to the operation of such organizations are
37 exempt from tax.

38 (d) Wholesale sales of tangible personal property for
39 resale under Section 27-65-19.

40 (e) From and after July 1, 2003, sales of fuel used to
41 produce electric power by a company primarily engaged in the
42 business of producing, generating or distributing electric power
43 for sale.

44 (f) Sales of electricity to any business establishment
45 in the State of Mississippi.

46 SECTION 2. Section 27-65-19, Mississippi Code of 1972, is
47 amended as follows:

48 27-65-19. (1) (a) Except as otherwise provided in this
49 subsection, upon every person selling to consumers, electricity,
50 current, power, potable water, steam, coal, natural gas, liquefied
51 petroleum gas or other fuel, there is hereby levied, assessed and
52 shall be collected a tax equal to seven percent (7%) of the gross
53 income of the business. Provided, gross income from sales to
54 consumers of electricity, current, power, natural gas, liquefied
55 petroleum gas or other fuel for residential heating, lighting or
56 other residential noncommercial or nonagricultural use, * * *
57 sales of potable water for residential, noncommercial or
58 nonagricultural use and sales of electricity, power and current to
59 any business establishment in the State of Mississippi shall be
60 excluded from taxable gross income of the business. Provided
61 further, upon every such seller using * * * potable water, steam,
62 coal, natural gas, liquefied petroleum gas or other fuel for
63 nonindustrial purposes, there is hereby levied, assessed and shall
64 be collected a tax equal to seven percent (7%) of the cost or

65 value of the product or service used.

66 (b) There is hereby levied, assessed and shall be
67 collected a tax equal to one and one-half percent (1-1/2%) of the
68 gross income of the business when the * * * steam, coal, natural
69 gas, liquefied petroleum gas or other fuel is sold to or used by a
70 manufacturer, custom processor or public service company for
71 industrial purposes, which shall include that used to generate
72 electricity, to operate an electrical distribution or transmission
73 system, to operate pipeline compressor or pumping stations or to
74 operate railroad locomotives; provided, however, that:

75 (i) From and after July 1, 2000, through June 30,
76 2001, sales of fuel used to produce electric power by a company
77 primarily engaged in the business of producing, generating or
78 distributing electric power for sale shall be taxed at the rate of
79 one and one-eighth percent (1.125%);

80 (ii) From and after July 1, 2001, through June 30,
81 2002, sales of fuel used to produce electric power by a company
82 primarily engaged in the business of producing, generating or
83 distributing electric power for sale shall be taxed at the rate of
84 three-fourths of one percent (0.75%);

85 (iii) From and after July 1, 2002, through June
86 30, 2003, sales of fuel used to produce electric power by a
87 company primarily engaged in the business of producing, generating
88 or distributing electric power for sale shall be taxed at the rate
89 of three-eighths of one percent (0.375%);

90 (iv) From and after July 1, 2003, sales of fuel
91 used to produce electric power by a company primarily engaged in
92 the business of producing, generating or distributing electric
93 power for sale shall be exempt from sales tax as provided in
94 Section 27-65-107.

95 (c) The one and one-half percent (1-1/2%) industrial
96 rate provided for in this subsection shall also apply when
97 the * * * steam, coal, natural gas, liquefied petroleum gas or

98 other fuel is sold to a producer or processor for use directly in
99 the production of poultry or poultry products, the production of
100 livestock and livestock products, the production of plants or food
101 by commercial horticulturists, the processing of milk and milk
102 products, the processing of poultry and livestock feed, and the
103 irrigation of farm crops.

104 (d) The one and one-half percent (1-1/2%) rate provided
105 for in this subsection shall not apply to sales of fuel for
106 automobiles, trucks, truck-tractors, buses, farm tractors or
107 airplanes.

108 (e) Upon every person operating a telegraph or
109 telephone business for the transmission of messages or
110 conversations between points within this state, there is hereby
111 levied, assessed and shall be collected, a tax equal to seven
112 percent (7%) of the gross income of such business, with no
113 deduction or allowance for any part of an intrastate rate charge
114 because of routing across a state line. However, any sale of a
115 prepaid telephone calling card or prepaid authorization number, or
116 both, shall be deemed to be the sale of tangible personal property
117 subject only to such taxes imposed by law on the sale of tangible
118 personal property. If the sale of a prepaid telephone calling
119 card or prepaid authorization number does not take place at the
120 vendor's place of business, it shall be conclusively determined to
121 take place at the customer's shipping address. The
122 reauthorization of a prepaid telephone calling card or a prepaid
123 authorization number shall be conclusively determined to take
124 place at the customer's billing address.

125 (2) Persons making sales to consumers of electricity,
126 current, power, natural gas, liquefied petroleum gas or other fuel
127 for residential heating, lighting or other residential
128 noncommercial or nonagricultural use or sales of potable water for
129 residential, noncommercial or nonagricultural use shall indicate
130 on each statement rendered to customers that such charges are

131 exempt from sales taxes. Persons making sales of electricity to
132 any business establishment in the State of Mississippi shall
133 indicate on each statement rendered to the business that such
134 charges are exempt from sales tax.

135 (3) There is hereby levied, assessed and shall be paid on
136 transportation charges on shipments moving between points within
137 this state when paid directly by the consumer, a tax equal to the
138 rate applicable to the sale of the property being transported.
139 Such tax shall be reported and paid directly to the State Tax
140 Commission by the consumer.

141 SECTION 3. Nothing in this act shall affect or defeat any
142 claim, assessment, appeal, suit, right or cause of action for
143 taxes due or accrued under the sales tax laws before the date on
144 which this act becomes effective, whether such claims,
145 assessments, appeals, suits or actions have been begun before the
146 date on which this act becomes effective or are begun thereafter;
147 and the provisions of the sales tax laws are expressly continued
148 in full force, effect and operation for the purpose of the
149 assessment, collection and enrollment of liens for any taxes due
150 or accrued and the execution of any warrant under such laws before
151 the date on which this act becomes effective, and for the
152 imposition of any penalties, forfeitures or claims for failure to
153 comply with such laws.

154 SECTION 4. This act shall take effect and be in force from
155 and after July 1, 1999.