

By: Representatives Wells-Smith, Endt

To: Ways and Means

## HOUSE BILL NO. 1674

1 AN ACT TO AMEND SECTION 27-31-34, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT THE AD VALOREM TAX EXEMPTION FOR POSSESSORY AND  
3 LEASEHOLD INTERESTS OF LESSEES UNDER CERTAIN LEASE CONTRACTS,  
4 LEASES OR LEASEHOLDS SHALL NOT APPLY TO ANY AD VALOREM TAX LEVIED  
5 UNDER CHAPTER 614, LOCAL AND PRIVATE LAWS OF 1960; TO AMEND  
6 SECTIONS 27-31-101 AND 27-31-105, MISSISSIPPI CODE OF 1972, TO  
7 PROVIDE THAT FROM AND AFTER JANUARY 1, 2000, A COUNTY MAY NOT  
8 EXEMPT NEW ENTERPRISES OR ADDITIONS TO OR EXPANSIONS OF SUCH  
9 ENTERPRISES FROM ANY AD VALOREM TAX LEVIED UNDER CHAPTER 614,  
10 LOCAL AND PRIVATE LAWS OF 1960; AND FOR RELATED PURPOSES.

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

12 SECTION 1. Section 27-31-34, Mississippi Code of 1972, is  
13 amended as follows:

14 27-31-34. (1) For purposes of this section, "state" means  
15 the State of Mississippi or any county, district, municipality or  
16 other political subdivision thereof.

17 All lease contracts, leases or leaseholds in existence on or  
18 before the effective date of this act (a) to which the state is a  
19 party, (b) which provide that the leased premises and all  
20 facilities and replacements thereof are and shall be the property  
21 of the state, and (c) which provide a term or period of time for  
22 exemption from ad valorem taxation, shall, along with the  
23 possessory and leasehold interests as described under and  
24 originally created by such lease contract, lease or leasehold, be  
25 exempt from all ad valorem taxation for the term or period of time  
26 as stated in such lease contracts, leases or leaseholds and any  
27 extension or renewal thereof. Lease contracts, leases, or  
28 leaseholds meeting the requirements of subparts (a) and (b) above,  
29 which were entered into prior to July 1, 1984, and which do not  
30 contain an express term or period for exemption from ad valorem

31 taxation, shall be exempt from all ad valorem taxation for the  
32 term of such lease contracts, leases, or leaseholds, including any  
33 option periods which may be exercised by the lessee. Any newly  
34 created lease contracts, leases or leaseholds created on or after  
35 January 18, 1984, shall not be exempt under this section from ad  
36 valorem taxes for school district purposes. From and after  
37 January 1, 2000, no exemption authorized under this section shall  
38 apply to any ad valorem tax levied under Chapter 614, Local and  
39 Private Laws of 1960.

40 (2) It is the sense of the Legislature that the provisions  
41 of Section 112, Mississippi Constitution of 1890, allowing the  
42 Legislature to exempt, by general laws, particular species of  
43 property from taxation, in whole or in part, authorize the  
44 enactment of this section. Further, the provisions of this  
45 section shall not be construed as the surrender or abridgement by  
46 the state of the power to tax the property which is the subject of  
47 the contracts, leases or leaseholds referred to in subsection (1)  
48 of this section. This section affirms the power of the state to  
49 grant such an exemption when it is in the best interests of the  
50 state to do so.

51 (3) The provisions of this section shall not apply to:

52 (a) A leasehold interest in property belonging to the  
53 Pearl River Water Supply District; or

54 (b) Any civil action filed before April 16, 1993.

55 SECTION 2. Section 27-31-101, Mississippi Code of 1972, is  
56 amended as follows:

57 27-31-101. County boards of supervisors and municipal  
58 authorities are hereby authorized and empowered, in their  
59 discretion, to grant exemptions from ad valorem taxation, except  
60 state ad valorem taxation. Provided, however, said governing  
61 authorities shall not exempt ad valorem taxes for school district  
62 purposes on tangible property used in, or necessary to, the  
63 operation of the manufacturers and other new enterprises  
64 hereinafter enumerated by classes, except to the extent authorized  
65 in Sections 27-31-104 and 27-31-105(2), nor shall they exempt from  
66 ad valorem taxes the products thereof or automobiles and trucks  
67 belonging to the said manufacturers or other new enterprises

68 operating on and over the highways of the State of Mississippi.  
69 From and after January 1, 2000, a county board of supervisors may  
70 not grant an exemption from any ad valorem tax levied under  
71 Chapter 614, Local and Private Laws of 1960, except to the extent  
72 authorized in Section 27-31-104. The time of such exemption shall  
73 be for a period not to exceed a total of ten (10) years which  
74 shall begin on the date of completion of the new enterprise for  
75 which the exemption is granted; however, boards of supervisors and  
76 municipal authorities, in lieu of granting the exemption for one  
77 (1) period of ten (10) years, may grant the exemption in a period  
78 of less than ten (10) years. When the initial exemption period  
79 granted is less than ten (10) years, the boards of supervisors and  
80 municipal authorities may grant a subsequent consecutive period or  
81 periods to follow the initial period of exemption, provided that  
82 the total of all periods of exemption shall not exceed ten (10)  
83 years. The date of completion of the new enterprise, from which  
84 the initial period of exemption shall begin, shall be the date on  
85 which operations of the new enterprise begin. Any request for an  
86 exemption must be made in writing within two hundred seventy (270)  
87 days from the date of completion of a new enterprise.

88 Any board of supervisors and/or municipal governing  
89 authorities which has entered into an agreement with an enterprise  
90 to grant an exemption for a period of not more than ten (10)  
91 years, as this section authorized prior to amendment by Chapter  
92 524, Laws of 1989 (Senate Bill 2925, 1989 Regular Session), may  
93 grant the exemption agreed upon provided that proof is presented  
94 to the State Tax Commission that the agreement was negotiated and,  
95 with respect to which, official action has been taken by the board  
96 of supervisors and/or municipal governing authorities, prior to  
97 July 1, 1989.

98 Any exemption from ad valorem taxes heretofore granted to  
99 existing enterprises shall continue in full force and effect but  
100 only as to tangible property heretofore included in the exemption

101 but not as to tangible property that may be later added as an  
102 addition or improvement to the exempt tangible property.

103 Any board of supervisors or municipal authority which has  
104 entered into an agreement prior to July 1, 1989, with a specific  
105 and new enterprise authorized to be exempt under the provisions of  
106 Section 27-31-101, may grant an exemption under this section  
107 provided said agreement is in writing and the date of the  
108 agreement is certified by the chancery clerk or municipal clerk of  
109 the granting authority. It is the intent of the Legislature to  
110 permit an exemption allowed under this section in those instances  
111 where the granting authority has in good faith negotiated with the  
112 new enterprise as to said exemption, and the agreement is reduced  
113 to writing and the date certified as provided in this paragraph,  
114 but to prohibit the granting of an exemption after June 30, 1989,  
115 under Section 27-31-101 as to ad valorem taxes for school district  
116 purposes, except to the extent authorized in Sections 27-31-104  
117 and 27-31-105(2).

118 Any board of supervisors or municipal authority which has  
119 granted an exemption for a period of less than ten (10) years may  
120 grant subsequent periods of exemption to run consecutively with  
121 the initial exemption period, or a subsequently granted exemption  
122 period, but in no case shall the total of the exemption periods  
123 granted for a new enterprise exceed ten (10) years. Any  
124 consecutive period of exemption shall be granted by entry of an  
125 order by the board or the authority granting the consecutive  
126 exemption on its minutes, reflecting the granting of the  
127 consecutive exemption period and the dates upon which such  
128 consecutive exemption period begins and expires. The entry of  
129 this order granting the consecutive period of exemption shall be  
130 made before the expiration of the exemption period immediately  
131 preceding the consecutive exemption period being granted.

132 The new enterprises which may be exempt are enumerated as and  
133 limited to the following, as determined by the State Tax

134 Commission:

135 Warehouse and/or distribution centers;

136 Manufacturing, processors and refineries;

137 Research facilities;

138 Corporate regional and national headquarters meeting minimum

139 criteria established by the Department of Economic and Community

140 Development;

141 Movie industry studios meeting minimum criteria established

142 by the Department of Economic and Community Development;

143 Air transportation and maintenance facilities meeting minimum

144 criteria established by the Department of Economic and Community

145 Development;

146 Recreational facilities that impact tourism meeting minimum

147 criteria established by the Department of Economic and Community

148 Development; and

149 Telecommunications enterprises meeting minimum criteria

150 established by the Department of Economic and Community

151 Development. The term "telecommunications enterprises" means

152 entities engaged in the creation, display, management, storage,

153 processing, transmission or distribution for compensation of

154 images, text, voice, video or data by wire or by wireless means,

155 or entities engaged in the construction, design, development,

156 manufacture, maintenance or distribution for compensation of

157 devices, products, software or structures used in the above

158 activities. Companies organized to do business as commercial

159 broadcast radio stations, television stations or news

160 organizations primarily serving in-state markets shall not be

161 included within the definition of the term "telecommunications

162 enterprises."

163 SECTION 3. Section 27-31-105, Mississippi Code of 1972, is

164 amended as follows:

165 27-31-105. (1) Any person, firm or corporation who owns or

166 operates a manufacturing or other enterprise of public utility as

167 enumerated in Section 27-31-101 and who makes additions to or  
168 expansions of the facilities or properties or replaces equipment  
169 used in connection with or necessary to the operation of such  
170 enterprise may be granted an exemption from ad valorem taxation,  
171 except state ad valorem taxation, upon each such addition to or  
172 expansion of the facility or property or replacement of equipment,  
173 within the discretion of the county board of supervisors and  
174 municipal authorities. Provided, however, said governing  
175 authorities shall not exempt ad valorem taxes for school district  
176 purposes on such additions or expansions of the facility or  
177 property, or replacement of equipment, except that this provision  
178 shall not apply to or affect any exemptions from ad valorem taxes  
179 for school district purposes which were granted under this section  
180 prior to the effective date of this chapter and such exemptions  
181 heretofore granted shall continue in force for the period of time  
182 for which they were granted, unless the grantor and grantee of the  
183 exemption agree otherwise. From and after January 1, 2000, a  
184 county board of supervisors may not grant an exemption from any ad  
185 valorem tax levied under Chapter 614, Local and Private Laws of  
186 1960, except to the extent authorized in subsection (2) of this  
187 section. In order to obtain such exemptions upon additions to or  
188 expansions of the facilities or properties, or replacement of  
189 equipment, such person, firm or corporation shall follow the same  
190 procedure prescribed for obtaining an exemption on a new  
191 enterprise, except as otherwise provided herein. For any  
192 additions, expansions or replacements with reference to any  
193 particular new enterprise, which additions, expansions or  
194 replacements have been completed during any calendar year, only  
195 one (1) request must be made for the exemptions sought for such  
196 additions, expansions or replacements. The request must be made  
197 in writing before February 1 of the year immediately following the  
198 year for which such exemptions are requested. The time of each  
199 such exemption on each addition to or expansion of the facilities

200 or properties or replacement of equipment shall commence from the  
201 thirty-first day of December of the year within which the  
202 additions, expansions or replacements were completed, and shall  
203 extend for a period not to exceed ten (10) years thereafter;  
204 however, boards of supervisors and municipal authorities, in lieu  
205 of granting the exemption for one (1) period of ten (10) years,  
206 may grant the exemption in consecutive periods of five (5) years  
207 each, but the total of such consecutive periods shall not exceed  
208 ten (10) years.

209 (2) For expansions of facilities or properties or  
210 replacement of equipment, county boards of supervisors and  
211 municipal authorities may grant a fee in lieu of taxes in the same  
212 manner, to the same extent, and with the same qualifying threshold  
213 as provided for projects under Section 27-31-104, Mississippi Code  
214 of 1972.

215 SECTION 4. This act shall take effect and be in force from  
216 and after its passage.