

By: Representative McCoy

To: Ways and Means

HOUSE BILL NO. 1291

1 AN ACT TO AMEND SECTIONS 27-35-309 AND 27-35-313, MISSISSIPPI
2 CODE OF 1972, TO CLARIFY THE MANNER IN WHICH PROPERTY OF A PUBLIC
3 UTILITY THAT IS LOCATED IN MORE THAN ONE STATE IS APPORTIONED BY
4 THE STATE TAX COMMISSION AND TO REVISE THE AMOUNT OF TIME THAT
5 ASSESSMENTS OF PUBLIC UTILITY PROPERTY REMAIN OPEN AND SUBJECT TO
6 OBJECTION; AND FOR RELATED PURPOSES.

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

8 SECTION 1. Section 27-35-309, Mississippi Code of 1972, is
9 amended as follows:

10 27-35-309. (1) The State Tax Commission shall, if
11 practicable, on or before the first Monday of June of each year,
12 make out for each person, firm, company or corporation listed in
13 Section 27-35-303, Mississippi Code of 1972, an assessment of said
14 company's property, both real and personal, tangible and
15 intangible. The State Tax Commission shall apportion the
16 assessment of value of each company's property according to the
17 provisions of this article, except as provided in subsection (3)
18 of this section, as follows:

19 (a) When the property of such public service company is
20 located in more than one (1) county in this state, the State Tax
21 Commission shall direct the company to apportion the assessed
22 value between the counties and municipalities and all other taxing
23 districts therein, in the proportion which the property located
24 therein bears to the entire value of the property of such company
25 as valued by the commission, so that to each county, municipality
26 and taxing district therein, there shall be apportioned such part
27 of the entire valuation as will fairly equalize the relative value
28 of the property therein located to the whole value thereof.

29 (b) When the property of such public utility required
30 to be assessed by the provisions of this article is located in
31 more than one (1) state, the assessed value thereof shall be
32 apportioned by the State Tax Commission based on the ratio that
33 the total original cost of operating property or business within
34 this state bears to the original cost of operating property or
35 business within and without this state.

36 The assessment roll shall contain all the property of any
37 such public service company, railroad, person, firm or corporation
38 and the value thereof, and so made that each county, municipality,
39 and taxing district shall receive its just share of taxes
40 proportionately to the amount of property therein situated.

41 (2) (a) The assessment when made shall remain open for
42 twenty (20) days in the office of the State Tax Commission, and be
43 for such time subject to the objections thereto which may be
44 filed; but real estate belonging to railroads and which forms no
45 part of the road, and is wholly disconnected from its railroad
46 business, shall not be assessed by the State Tax Commission, but
47 shall be assessed as other real estate is assessed by the tax
48 assessor of the county where situated.

49 (b) The apportionment of the assessed value as required
50 by this section shall be filed with the State Tax Commission by
51 such public service company on or before the first day of August
52 in each year. If such company shall fail, refuse or neglect to
53 render the apportionment of assessed value as required by this
54 section, such company shall be subject to the penalties provided
55 for in Section 27-35-305. The filing of an objection by such
56 public service company shall not preclude such company from filing
57 the property apportionment as required by this section.

58 (3) Any nuclear generating plant which is located in the
59 state, which is owned or operated by a public utility rendering
60 electric service within the state and not exempt from ad valorem
61 taxation under any other statute and which is not owned or

62 operated by an instrumentality of the federal government shall be
63 exempt from county, municipal and district ad valorem taxes. In
64 lieu of the payment of county, municipal and district ad valorem
65 taxes, such public utility shall pay to the State Tax Commission a
66 sum based on the assessed value of such nuclear generating plant
67 in an amount to be determined and distributed as follows:

68 (a) The State Tax Commission shall annually assign an
69 assessed value to any nuclear generating plant described in this
70 subsection in the same manner as for ad valorem tax purposes by
71 using accepted industry methods for appraising and assessing
72 public utility property. The assessed value assigned shall be
73 used for the purpose of determining the in-lieu tax due under this
74 section and shall not be included on the ad valorem tax rolls of
75 the situs taxing authority nor be subject to ad valorem taxation
76 by the situs taxing authority nor shall the assessed value
77 assigned be used in determining the debt limit of the situs taxing
78 authority. However, the assessed value so assigned may be used by
79 the situs taxing authority for the purpose of determining salaries
80 of its public officials.

81 (b) On or before February 1, 1987, for the 1986 taxable
82 year and on or before February 1 of each year through the 1989
83 taxable year, such utility shall pay to the State Tax Commission a
84 sum equal to two percent (2%) of the assessed value as ascertained
85 by the State Tax Commission, but such payment shall not be less
86 than Sixteen Million Dollars (\$16,000,000.00) for any of the four
87 (4) taxable years; all such payments in excess of Sixteen Million
88 Dollars (\$16,000,000.00) for these four (4) taxable years shall be
89 paid into the General Fund of the state. On or before February 1,
90 1991, for the 1990 taxable year and on or before February 1 of
91 each year thereafter, such utility shall pay to the State Tax
92 Commission a sum equal to two percent (2%) of the assessed value
93 as ascertained by the State Tax Commission, but such payment shall
94 not be less than Twenty Million Dollars (\$20,000,000.00) for any

95 taxable year for as long as such nuclear power plant is licensed
96 to operate and is not being permanently decommissioned; all such
97 payments in excess of Sixteen Million Dollars (\$16,000,000.00) for
98 taxable years 1990 and thereafter shall be paid as follows:

99 (i) An amount of Three Million Forty Thousand
100 Dollars (\$3,040,000.00) annually, beginning with fiscal year 1991,
101 shall be transferred by the State Tax Commission to Claiborne
102 County. Such payments may be expended by the Board of Supervisors
103 of Claiborne County for any purpose for which a county is
104 authorized by law to levy an ad valorem tax and shall not be
105 included or considered as proceeds of ad valorem taxes for the
106 purposes of the growth limitation on ad valorem taxes under
107 Sections 27-39-305 and 27-39-321. Provided, however, should the
108 Board of Supervisors of Claiborne County withdraw its support of
109 the Grand Gulf Nuclear Station off-site emergency plan or
110 otherwise fail to satisfy its off-site emergency plan commitments
111 as determined by the Mississippi Emergency Management Agency and
112 the Federal Emergency Management Agency, Five Hundred Thousand
113 Dollars (\$500,000.00) annually of the funds designated for
114 Claiborne County as described by this subsection (i) shall be
115 deposited in the Grand Gulf Disaster Assistance Fund as provided
116 in Section 33-15-51.

117 (ii) An amount of One Hundred Sixty Thousand
118 Dollars (\$160,000.00) annually, beginning with fiscal year 1991,
119 shall be transferred by the State Tax Commission to the City of
120 Port Gibson, Mississippi. Such payments may be expended by the
121 Board of Aldermen of the City of Port Gibson for any purpose for
122 which a municipality is authorized by law to levy an ad valorem
123 tax and shall not be included or considered as proceeds of ad
124 valorem taxes for the purposes of the growth limitation on ad
125 valorem taxes under Sections 27-39-305 and 27-39-321. Provided,
126 however, should the Board of Aldermen of the City of Port Gibson
127 withdraw its support of the Grand Gulf Nuclear Station off-site

128 emergency plan or otherwise fail to satisfy its off-site emergency
129 plan commitment, as determined by the Mississippi Emergency
130 Management Agency and the Federal Emergency Management Agency,
131 Fifty Thousand Dollars (\$50,000.00) annually of the funds
132 designated for the City of Port Gibson as described by this
133 subsection (ii) shall be deposited in the Grand Gulf Disaster
134 Assistance Fund as provided in Section 33-15-51.

135 (iii) The remaining balance of the payments in
136 excess of Sixteen Million Dollars (\$16,000,000.00) annually, less
137 amounts transferred under (i) and (ii) of this subsection,
138 beginning with fiscal year 1991, shall be allocated in accordance
139 with subsection (3)(f) of this section.

140 (c) Pursuant to certification by the Attorney General
141 to the State Treasurer and the State Tax Commission that the suit
142 against the State of Mississippi pending on the effective date of
143 House Bill 8, First Extraordinary Session of 1990, [Laws, 1990 Ex
144 Session, Ch. 12, eff June 26, 1990], in the Chancery Court for the
145 First Judicial District of Hinds County, Mississippi, styled
146 Albert Butler et al v. the Mississippi State Tax Commission et al,
147 has been voluntarily dismissed with prejudice as to all plaintiffs
148 at the request of the complainants and that no attorney's fees or
149 court costs have been assessed against the state and each of the
150 parties, including Claiborne County and each municipality and
151 school district located in the county, have signed and delivered
152 to the Attorney General a full and complete release in favor of
153 the State of Mississippi and its elected officials of all claims
154 that have been asserted or may be asserted in the suit pending on
155 the effective date of House Bill 8, First Extraordinary Session of
156 1990, [Laws, 1990 Ex Session, Ch. 12, eff June 26, 1990], in the
157 Chancery Court for the First Judicial District of Hinds County,
158 Mississippi, styled Albert Butler et al v. the Mississippi State
159 Tax Commission et al, and the deposit into the State General Fund
160 of in-lieu payments and interest thereon due the state under

161 subsection (3)(b) of this section but placed in escrow because of
162 the lawsuit described above, the state shall promptly transfer to
163 the Board of Supervisors of Claiborne County out of the State
164 General Fund an amount of Two Million Dollars (\$2,000,000.00)
165 which shall be a one-time distribution to Claiborne County from
166 the state. Such payment may be expended by the Board of
167 Supervisors of Claiborne County for any purposes for which a
168 county is authorized by law to levy an ad valorem tax and shall
169 not be included or considered as proceeds of ad valorem taxes for
170 the purposes of the growth limitation on ad valorem taxes for the
171 1991 fiscal year under Sections 27-39-321 and 27-39-305.

172 (d) After distribution of the one-time payment to
173 Claiborne County as set forth in subsection (3)(c) of this
174 section, the State Tax Commission upon certification that the
175 pending lawsuit as described in subsection (3)(c) of this section
176 has been voluntarily dismissed shall promptly deposit an amount of
177 Five Hundred Thousand Dollars (\$500,000.00) into the Grand Gulf
178 Disaster Assistance Trust Fund as provided for in Section
179 33-15-51, which shall be a one-time payment, to be utilized in
180 accordance with the provisions of such section.

181 (e) After distribution of the one-time payment to
182 Claiborne County as set forth in subsection (3)(c) of this section
183 and the payment to the Grand Gulf Disaster Assistance Trust Fund
184 as set forth in subsection (3)(d) of this section, the State Tax
185 Commission upon certification that the pending lawsuit as
186 described in subsection (3)(c) of this section has been
187 voluntarily dismissed shall promptly distribute ten percent (10%)
188 of the remainder of the prior payments remaining in escrow to the
189 General Fund of the state and the balance of the prior payments
190 remaining in escrow shall be distributed to the counties and
191 municipalities in this state wherein such public utility has
192 rendered electric service in the proportion that the amount of
193 electric energy consumed by the retail customers of such public

194 utility in each county, excluding municipalities therein, and in
195 each municipality, for the next preceding fiscal year bears to the
196 total amount of electric energy consumed by all retail customers
197 of such public utility in the State of Mississippi for the next
198 preceding fiscal year. The payments distributed to the counties
199 and municipalities under this paragraph (e) may be expended by
200 such counties and municipalities for any lawful purpose and shall
201 not be included or considered as proceeds of ad valorem taxes for
202 the purposes of the growth limitation on ad valorem taxes under
203 Sections 27-39-321 and 27-39-305.

204 (f) After distribution of the payments for fiscal year
205 1991 as set forth in Section 19-9-151 and distribution of the
206 payments as provided for in subsection (3)(b) of this section, the
207 State Tax Commission shall distribute ten percent (10%) of the
208 remainder of the payments to the General Fund of the state and the
209 balance to the counties and municipalities in this state wherein
210 such public utility renders electric service in the proportion
211 that the amount of electric energy consumed by the retail
212 customers of such public utility in each county, excluding
213 municipalities therein, and in each municipality for the next
214 preceding fiscal year bears to the total amount of electric energy
215 consumed by all retail customers of such public utility in the
216 State of Mississippi for the next preceding fiscal year.

217 (g) No county, including municipalities therein, shall
218 receive in excess of twenty percent (20%) of the funds distributed
219 under paragraph (f) of this subsection.

220 (h) The revenues received by counties and
221 municipalities under paragraph (f) of this subsection shall not be
222 included or considered as proceeds of ad valorem taxes for the
223 purposes of the growth limitation on ad valorem taxes under
224 Sections 27-39-305 and 27-39-321.

225 SECTION 2. Section 27-35-313, Mississippi Code of 1972, is
226 amended as follows:

227 27-35-313. So soon as the assessment rolls have remained
228 subject to objection for twenty (20) days, and when all
229 objections, if any, are disposed of, the assessment rolls shall be
230 approved by order of the State Tax Commission, and a certified
231 copy of the same shall be sent immediately to the clerks of the
232 board of supervisors of the respective counties, who shall file
233 and preserve the same as a record.

234 SECTION 3. This act shall take effect and be in force from
235 and after its passage.