

By: Representative Snowden

To: Ways and Means

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1215

1 AN ACT TO AMEND SECTIONS 27-35-301, 27-35-303, 27-35-305,
2 27-35-307, 27-35-309, 27-35-310, 27-35-311, 27-35-313, 27-35-321,
3 27-35-325, 27-35-327 AND 27-35-337, MISSISSIPPI CODE OF 1972, TO
4 REVISE THE DATE BY WHICH RAILROADS AND OTHER PUBLIC SERVICE
5 CORPORATIONS MUST FILE WITH THE DEPARTMENT OF REVENUE FOR AD
6 VALOREM TAX ASSESSMENT PURPOSES SCHEDULES OF PROPERTY OWNED BY
7 SUCH CORPORATIONS; TO REVISE THE TIME FOR WHICH THE DEPARTMENT OF
8 REVENUE MAY GRANT AN EXTENSION FOR THE FILING OF SUCH SCHEDULES;
9 TO REVISE THE LENGTH OF TIME THAT ASSESSMENTS MADE BY THE
10 DEPARTMENT OF REVENUE OF SUCH PROPERTY SHALL REMAIN OPEN FOR
11 OBJECTION; TO REVISE THE DATE BY WHICH RAILROADS AND OTHER PUBLIC
12 SERVICE CORPORATIONS MUST FILE AN APPORTIONMENT OF THE ASSESSED
13 VALUE OF PROPERTY OF SUCH CORPORATIONS; AND FOR RELATED PURPOSES.

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

15 **SECTION 1.** Section 27-35-301, Mississippi Code of 1972, is
16 amended as follows:

17 27-35-301. The * * * Department of Revenue is constituted
18 state * * * assessor of railroads and other public service
19 corporations, and * * * it shall, upon the receipt or making of
20 the schedules hereinafter provided for, assess the property of
21 railroads, telegraph, telephone, sleeping car, express, electric
22 power and light companies and other public service corporations
23 liable to taxation in the state, affixing its true value so that



24 such property shall bear its just proportion of taxation, taking
25 into consideration the value of the franchise and the capital
26 engaged in the business in this state. The state * * * assessor
27 of railroads and other public service corporations may adopt other
28 and further rules necessary and proper to ascertain the value of
29 property to be assessed by them, including the value of the
30 franchise and amount of capital engaged in the business in this
31 state. Provided, however, the * * * Department of Revenue shall
32 be * * * assessor of railroad and Class IV public service
33 property, but shall not be the * * * assessor of the types and
34 kinds of properties owned by the public service corporations and
35 appraised and assessed by county tax assessors pursuant to
36 Sections 27-35-331 through 27-35-341.

37 **SECTION 2.** Section 27-35-303, Mississippi Code of 1972, is
38 amended as follows:

39 27-35-303. (1) Each person, firm, company or corporation
40 owning and/or operating a railroad, oil or gas pipeline company,
41 electric company or any other company listed in Section 27-35-301,
42 owning property not situated wholly in one (1) county; and any
43 telephone company owning property in more than six (6) counties
44 shall, on or before the first * * * day of March in each year,
45 file with the * * * Department of Revenue a complete schedule,
46 under oath, on forms prescribed and furnished by the * * *
47 Department of Revenue, of all its property, real or personal,
48 taxable and nontaxable, owned by it on the first day of the



49 preceding January, setting forth therein the value of the whole,
50 the total amount of capital stock, its par value and its actual
51 value, and the value of its franchise, the gross amount of
52 receipts in the year preceding; all real, personal or mixed
53 property belonging to the company within the state, not
54 enumerated, with its value; a list of all lands in this state
55 owned, describing the same and giving the value thereof, the gross
56 amount of receipts the year preceding earned within and from this
57 state; and if any of said property is claimed to be exempt from
58 taxation, it shall be separately stated and valued, and the law
59 cited under which the claim is made. It shall not be necessary
60 that a rendition on any motor vehicles be made as defined by the
61 "Motor Vehicle Ad Valorem Tax Law of 1958." In addition to these
62 required schedules, the * * * Department of Revenue may require
63 each person, firm, company or corporation to file with the * * *
64 Department of Revenue a copy of any annual report or form required
65 to be filed by him with any federal regulatory agency. The * * *
66 Department of Revenue may grant an extension of up to * * *
67 fifteen (15) days for the filing of the schedules required by this
68 section.

69 (2) The * * * Department of Revenue shall have the power to
70 adopt, amend or repeal such rules and regulations as necessary to
71 implement tax duties assigned to it in this section.

72 **SECTION 3.** Section 27-35-305, Mississippi Code of 1972, is
73 amended as follows:



74 27-35-305. If any company, corporation, firm or person, who
75 is required by law to render schedules of its, their or his
76 property to the * * * Department of Revenue, as provided by
77 Section 27-35-303, Mississippi Code of 1972, for the purposes of
78 assessment for taxation, shall fail, refuse or neglect to render
79 the schedules, as required, such company, corporation, firm or
80 person shall pay a penalty up to ten percent (10%) of the
81 assessment as computed by the * * * department, and in case of
82 such failure, refusal or neglect, the * * * department shall make
83 out such schedules from the best information obtainable.

84 **SECTION 4.** Section 27-35-307, Mississippi Code of 1972, is
85 amended as follows:

86 27-35-307. If in any case the state railroad * * * assessor
87 has reason to believe that any person, firm, company or
88 corporation which under this chapter is to be assessed by
89 the * * * Department of Revenue has rendered a false or fraudulent
90 schedule, so that an assessment predicated thereon would relieve
91 such person, firm, company or corporation of a just share of
92 taxation, the * * * department shall not, in making the assessment
93 be bound thereby, but shall make out a proper schedule as if none
94 had been rendered, first giving such person, company, firm or
95 corporation five (5) days' notice to come forward at a time and
96 place to be named, and show cause why such a course should not be
97 pursued. Such notice shall be served and returned as a summons



98 from a court, but the failure to receive such notice shall not
99 render the assessment void.

100 **SECTION 5.** Section 27-35-309, Mississippi Code of 1972, is
101 amended as follows:

102 27-35-309. (1) The Department of Revenue shall, if
103 practicable, on or before the first Monday of June of each year,
104 make out for each person, firm, company or corporation listed in
105 Section 27-35-303, Mississippi Code of 1972, an assessment of the
106 company's property, both real and personal, tangible and
107 intangible. The Department of Revenue shall apportion the
108 assessment of value of each company's property according to the
109 provisions of this article, except as provided in subsection (3)
110 of this section, as follows:

111 (a) When the property of such public service company is
112 located in more than one (1) county in this state, the Department
113 of Revenue shall direct the company to apportion the assessed
114 value between the counties and municipalities and all other taxing
115 districts therein, in the proportion which the property located
116 therein bears to the entire value of the property of such company
117 as valued by the department, so that to each county, municipality
118 and taxing district therein, there shall be apportioned such part
119 of the entire valuation as will fairly equalize the relative value
120 of the property therein located to the whole value thereof.

121 (b) When the property of such public utility required
122 to be assessed by the provisions of this article is located in



123 more than one (1) state, the assessed value thereof shall be
124 apportioned by the Department of Revenue in such manner as will
125 fairly and equitably determine the principal sum for the value
126 thereof in this state, and after ascertaining such value it shall
127 be apportioned by them as herein provided.

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

133 (2) (a) The assessment when made shall remain open
134 for * * * ten (10) days in the Office of the Department of
135 Revenue, and be for such time subject to the objections thereto
136 which may be filed with the Executive Director of the Board of Tax
137 Appeals; but real estate belonging to railroads and which forms no
138 part of the road, and is wholly disconnected from its railroad
139 business, shall not be assessed by the Department of Revenue, but
140 shall be assessed as other real estate is assessed by the tax
141 assessor of the county where situated.

142 (b) The apportionment of the assessed value as required
143 by this section shall be filed with the Department of Revenue by
144 such public service company so as to be received by the department
145 on or before the * * * twenty-fifth day of June in each year. If
146 such company shall fail, refuse or neglect to render the
147 apportionment of assessed value as required by this section, such



148 company shall be subject to the penalties provided for in Section
149 27-35-305. The filing of an objection by such public service
150 company shall not preclude such company from filing the property
151 apportionment as required by this section.

152 (3) Any nuclear generating plant which is located in the
153 state, which is owned or operated by a public utility rendering
154 electric service within the state and not exempt from ad valorem
155 taxation under any other statute and which is not owned or
156 operated by an instrumentality of the federal government shall be
157 exempt from county, municipal and district ad valorem taxes. In
158 lieu of the payment of county, municipal and district ad valorem
159 taxes, such public utility shall pay to the Department of Revenue
160 a sum based on the assessed value of such nuclear generating plant
161 in an amount to be determined and distributed as follows:

162 (a) The Department of Revenue shall annually assign an
163 assessed value to any nuclear generating plant described in this
164 subsection in the same manner as for ad valorem tax purposes by
165 using accepted industry methods for appraising and assessing
166 public utility property. The assessed value assigned shall be
167 used for the purpose of determining the in-lieu tax due under this
168 section and shall not be included on the ad valorem tax rolls of
169 the situs taxing authority nor be subject to ad valorem taxation
170 by the situs taxing authority nor shall the assessed value
171 assigned be used in determining the debt limit of the situs taxing
172 authority. However, the assessed value so assigned may be used by



173 the situs taxing authority for the purpose of determining salaries
174 of its public officials.

175 (b) On or before February 1, 1987, for the 1986 taxable
176 year and on or before February 1 of each year through the 1989
177 taxable year, such utility shall pay to the Department of Revenue
178 a sum equal to two percent (2%) of the assessed value as
179 ascertained by the Department of Revenue, but such payment shall
180 not be less than Sixteen Million Dollars (\$16,000,000.00) for any
181 of the four (4) taxable years; all such payments in excess of
182 Sixteen Million Dollars (\$16,000,000.00) for these four (4)
183 taxable years shall be paid into the General Fund of the state.

184 On or before February 1, 1991, for the 1990 taxable year and on or
185 before February 1 of each year thereafter, such utility shall pay
186 to the Department of Revenue a sum equal to two percent (2%) of
187 the assessed value as ascertained by the Department of Revenue,
188 but such payment shall not be less than Twenty Million Dollars
189 (\$20,000,000.00) for any taxable year for as long as such nuclear
190 power plant is licensed to operate and is not being permanently
191 decommissioned; all such payments in excess of Sixteen Million
192 Dollars (\$16,000,000.00) for taxable years 1990 and thereafter
193 shall be paid as follows:

194 (i) An amount of Three Million Forty Thousand
195 Dollars (\$3,040,000.00) annually, beginning with fiscal year 1991,
196 shall be transferred by the Department of Revenue to Claiborne
197 County. Such payments may be expended by the Board of Supervisors



198 of Claiborne County for any purpose for which a county is
199 authorized by law to levy an ad valorem tax and shall not be
200 included or considered as proceeds of ad valorem taxes for the
201 purposes of the growth limitation on ad valorem taxes under
202 Sections 27-39-305 and 27-39-321. However, should the Board of
203 Supervisors of Claiborne County withdraw its support of the Grand
204 Gulf Nuclear Station off-site emergency plan or otherwise fail to
205 satisfy its off-site emergency plan commitments as determined by
206 the Mississippi Emergency Management Agency and the Federal
207 Emergency Management Agency, Five Hundred Thousand Dollars
208 (\$500,000.00) annually of the funds designated for Claiborne
209 County as described by this subsection (i) shall be deposited in
210 the Grand Gulf Disaster Assistance Fund as provided in Section
211 33-15-51.

212 (ii) An amount of One Hundred Sixty Thousand
213 Dollars (\$160,000.00) annually, beginning with fiscal year 1991,
214 shall be transferred by the Department of Revenue to the City of
215 Port Gibson, Mississippi. Such payments may be expended by the
216 Board of Aldermen of the City of Port Gibson for any purpose for
217 which a municipality is authorized by law to levy an ad valorem
218 tax and shall not be included or considered as proceeds of ad
219 valorem taxes for the purposes of the growth limitation on ad
220 valorem taxes under Sections 27-39-305 and 27-39-321. However,
221 should the Board of Aldermen of the City of Port Gibson withdraw
222 its support of the Grand Gulf Nuclear Station off-site emergency



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

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

235 (c) Pursuant to certification by the Attorney General
236 to the State Treasurer and the * * * Department of Revenue that
237 the suit against the State of Mississippi pending on the effective
238 date of House Bill 8, First Extraordinary Session of 1990, [Laws,
239 1990 Ex Session, Ch. 12, eff June 26, 1990], in the Chancery Court
240 for the First Judicial District of Hinds County, Mississippi,
241 styled Albert Butler et al v. the Mississippi State Tax Commission
242 et al, has been voluntarily dismissed with prejudice as to all
243 plaintiffs at the request of the complainants and that no
244 attorney's fees or court costs have been assessed against the
245 state and each of the parties, including Claiborne County and each
246 municipality and school district located in the county, have
247 signed and delivered to the Attorney General a full and complete



248 release in favor of the State of Mississippi and its elected
249 officials of all claims that have been asserted or may be asserted
250 in the suit pending on the effective date of House Bill 8, First
251 Extraordinary Session of 1990, [Laws, 1990 Ex Session, Ch. 12, eff
252 June 26, 1990], in the Chancery Court for the First Judicial
253 District of Hinds County, Mississippi, styled Albert Butler et al
254 v. the Mississippi State Tax Commission et al, and the deposit
255 into the State General Fund of in-lieu payments and interest
256 thereon due the state under subsection (3)(b) of this section but
257 placed in escrow because of the lawsuit described above, the state
258 shall promptly transfer to the Board of Supervisors of Claiborne
259 County out of the State General Fund an amount of Two Million
260 Dollars (\$2,000,000.00) which shall be a one-time distribution to
261 Claiborne County from the state. Such payment may be expended by
262 the Board of Supervisors of Claiborne County for any purposes for
263 which a county is authorized by law to levy an ad valorem tax and
264 shall not be included or considered as proceeds of ad valorem
265 taxes for the purposes of the growth limitation on ad valorem
266 taxes for the 1991 fiscal year under Sections 27-39-321 and
267 27-39-305.

268 (d) After distribution of the one-time payment to
269 Claiborne County as set forth in subsection (3)(c) of this
270 section, the Department of Revenue upon certification that the
271 pending lawsuit as described in subsection (3)(c) of this section
272 has been voluntarily dismissed shall promptly deposit an amount of



273 Five Hundred Thousand Dollars (\$500,000.00) into the Grand Gulf
274 Disaster Assistance Trust Fund as provided for in Section
275 33-15-51, which shall be a one-time payment, to be utilized in
276 accordance with the provisions of such section.

277 (e) After distribution of the one-time payment to
278 Claiborne County as set forth in subsection (3)(c) of this section
279 and the payment to the Grand Gulf Disaster Assistance Trust Fund
280 as set forth in subsection (3)(d) of this section, the Department
281 of Revenue upon certification that the pending lawsuit as
282 described in subsection (3)(c) of this section has been
283 voluntarily dismissed shall promptly distribute ten percent (10%)
284 of the remainder of the prior payments remaining in escrow to the
285 General Fund of the state and the balance of the prior payments
286 remaining in escrow shall be distributed to the counties and
287 municipalities in this state wherein such public utility has
288 rendered electric service in the proportion that the amount of
289 electric energy consumed by the retail customers of such public
290 utility in each county, excluding municipalities therein, and in
291 each municipality, for the next preceding fiscal year bears to the
292 total amount of electric energy consumed by all retail customers
293 of such public utility in the State of Mississippi for the next
294 preceding fiscal year. The payments distributed to the counties
295 and municipalities under this paragraph (e) may be expended by
296 such counties and municipalities for any lawful purpose and shall
297 not be included or considered as proceeds of ad valorem taxes for



298 the purposes of the growth limitation on ad valorem taxes under
299 Sections 27-39-321 and 27-39-305.

300 (f) After distribution of the payments for fiscal year
301 1991 as set forth in Section 19-9-151 and distribution of the
302 payments as provided for in subsection (3)(b) of this section, the
303 Department of Revenue shall distribute ten percent (10%) of the
304 remainder of the payments to the General Fund of the state and the
305 balance to the counties and municipalities in this state wherein
306 such public utility renders electric service in the proportion
307 that the amount of electric energy consumed by the retail
308 customers of such public utility in each county, excluding
309 municipalities therein, and in each municipality for the next
310 preceding fiscal year bears to the total amount of electric energy
311 consumed by all retail customers of such public utility in the
312 State of Mississippi for the next preceding fiscal year.

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

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

321 **SECTION 6.** Section 27-35-310, Mississippi Code of 1972, is
322 amended as follows:



323 27-35-310. All nuclear power plant property that has been
324 abandoned and written off the books of the public utility owning
325 such property and is no longer considered operating property of
326 such utility by the * * * Department of Revenue or is being
327 permanently decommissioned shall be exempted from all ad valorem
328 taxes now levied or hereafter levied by the State of Mississippi,
329 or any county, municipality, levee district, school or any other
330 taxing district within the state.

331 **SECTION 7.** Section 27-35-311, Mississippi Code of 1972, is
332 amended as follows:

333 27-35-311. (1) It shall be the duty of the Board of Tax
334 Appeals to hear and determine objections to assessments made by
335 the Department of Revenue for ad valorem tax purposes. They may,
336 if they think objections just, sustain the same and amend
337 assessments, if necessary accordingly.

338 (2) Any objection shall be in writing and filed with the
339 Executive Director of the Board of Tax Appeals within the * * *
340 ten-day period set out in Section 27-35-309(2) (a). At the time of
341 filing the objection with the Executive Director of the Board of
342 Tax Appeals, the taxpayer shall also file a copy of his written
343 objection with the Department of Revenue.

344 **SECTION 8.** Section 27-35-313, Mississippi Code of 1972, is
345 amended as follows:

346 27-35-313. So soon as the assessment rolls have remained
347 subject to objection for * * * ten (10) days, and when all



348 objections, if any, are disposed of, the assessment rolls shall be
349 approved by the Department of Revenue, and a certified copy of the
350 assessment rolls shall be sent immediately to the clerks of the
351 board of supervisors of the respective counties, who shall file
352 and preserve it as a record.

353 **SECTION 9.** Section 27-35-321, Mississippi Code of 1972, is
354 amended as follows:

355 27-35-321. Any corporation owning, possessing, holding or
356 operating a toll bridge structure located partly but not wholly
357 within one county of this state and any substantial part of which
358 so situated in this state is used or operated, howsoever, by or in
359 connection with any common carrier railroad, as an instrumentality
360 or facility for the conduct by such common carrier railroad of
361 interstate commerce or its interstate transportation business,
362 shall be considered and the same is hereby declared and defined to
363 be a public service corporation as to all of its property situated
364 in this state and which is liable to taxation in this state; and
365 such property shall be wholly and exclusively subject to valuation
366 and assessment for the purposes of taxation by the * * *
367 Department of Revenue, which * * * agency is by law constituted
368 state assessor of railroads and other public service corporations.
369 Such property of said corporation shall be assessed to the extent
370 and in like manner as the property of other public service
371 corporations and public utilities now subject to the authority and
372 jurisdiction of said * * * department; and said toll bridge



373 corporations shall make and file schedules in time and manner as
374 provided by Sections 27-35-309, 27-35-317 and 27-35-323 and under
375 penalties as therein provided.

376 Such property of all persons, partnerships or associations of
377 persons, so owned, held, possessed, operated, situated and
378 utilized, however, shall, likewise, be valued and assessed for the
379 purposes of taxation by the said * * * Department of Revenue.

380 **SECTION 10.** Section 27-35-325, Mississippi Code of 1972, is
381 amended as follows:

382 27-35-325. The Department of Revenue is hereby authorized
383 and empowered and it shall be its duty to assess any property
384 required to be assessed by the Department of Revenue as the state
385 assessor of railroads, which it discovers escaping taxation in
386 former years by reason of not being assessed; and to assess or
387 cause to be assessed and taxed, any such property which it
388 discovers escaping taxation by reason of not being assessed in or
389 for the benefit of any road district, school district, or other
390 taxing district or municipality, although the property may have
391 been assessed and taxed for state and general county taxes;
392 however, the right to so assess property shall expire at the end
393 of seven (7) years from the date when the right so to do first
394 accrued. When any property is discovered escaping assessment and
395 taxation which, under the law, is required to be assessed by the
396 Department of Revenue as state assessor of railroads, the
397 Department of Revenue shall assess the same for such purpose and



398 for the years it has escaped taxation, and shall give notice by
399 United States mail, or otherwise, by the Commissioner of Revenue
400 of the Department of Revenue to the owner of the property, or
401 agent, of such owner, showing what property has escaped assessment
402 and for what years, and all other proper information, and the
403 owner shall have * * * ten (10) days in which to file objections.
404 The Department of Revenue shall deal with the assessment in all
405 respects with the same powers as if made at the time regular
406 assessment of such property is made, and shall have power to
407 require such information as it may desire for the correct
408 determination of all questions before it. When any objection is
409 heard and determined, the Board of Tax Appeals shall by order
410 approve or disapprove, or may modify the assessment, and make it
411 final. If no objection is made in regard to the assessment or if
412 the assessment is approved or modified by the Board of Tax
413 Appeals, the Department of Revenue shall certify it to the clerk
414 of the board of supervisors of the county or counties where the
415 property is located, and such assessment shall be dealt with by
416 the clerk and tax collector as is required in cases of assessments
417 when made at the regular time. In all cases where suit is
418 necessary, it shall be the duty of the Attorney General to
419 represent the Department of Revenue whenever requested to do so.
420 **SECTION 11.** Section 27-35-327, Mississippi Code of 1972, is
421 amended as follows:



422 27-35-327. Complete and full records shall be kept and
423 preserved by the * * * Department of Revenue of all things done
424 under the authority vested in it as the state assessor of
425 railroads, and public utilities.

426 **SECTION 12.** Section 27-35-337, Mississippi Code of 1972, is
427 amended as follows:

428 27-35-337. It shall be the duty of public service
429 corporations subject to Sections 27-35-331 through 27-35-343 to
430 report to the county tax assessor of the counties in which any
431 property subject to Sections 27-35-331 through 27-35-343 is
432 located the same information and data, at the same time as such
433 data and information has heretofore been reported to the * * *
434 Department of Revenue. Reports to the * * * Department of Revenue
435 may, after the effective date of Sections 27-35-331 through
436 27-35-343, eliminate the data and information which will be
437 reported to county tax assessors pursuant to this section.

438 **SECTION 13.** This act shall take effect and be in force from
439 and after January 1, 2019.

