

By: Representative Snowden

To: Ways and Means

HOUSE BILL NO. 814

1 AN ACT TO AMEND SECTIONS 27-35-301, 27-35-303, 27-35-305,
2 27-35-309, 27-35-311, 27-35-313 AND 27-35-325, MISSISSIPPI CODE OF
3 1972, TO REVISE CERTAIN PROVISIONS REGARDING THE ASSESSMENT OF
4 RAILROAD AND OTHER PUBLIC SERVICE CORPORATION PROPERTY FOR THE
5 PURPOSES OF AD VALOREM TAXATION; TO REVISE THE DATE BY WHICH
6 RAILROADS AND OTHER PUBLIC SERVICE CORPORATIONS MUST FILE WITH THE
7 DEPARTMENT OF REVENUE FOR AD VALOREM TAX ASSESSMENT PURPOSES
8 SCHEDULES OF PROPERTY OWNED BY SUCH CORPORATIONS; TO REVISE THE
9 TIME FOR WHICH THE DEPARTMENT OF REVENUE MAY GRANT AN EXTENSION
10 FOR THE FILING OF SUCH SCHEDULES; TO REVISE THE LENGTH OF TIME
11 THAT ASSESSMENTS MADE BY THE DEPARTMENT OF REVENUE OF SUCH
12 PROPERTY SHALL REMAIN OPEN FOR OBJECTION; TO REVISE THE DATE BY
13 WHICH RAILROADS AND OTHER PUBLIC SERVICE CORPORATIONS MUST FILE AN
14 APPORTIONMENT OF THE ASSESSED VALUE OF PROPERTY OF SUCH
15 CORPORATIONS; TO REVISE CERTAIN PROVISIONS REGARDING OBJECTIONS TO
16 ASSESSMENTS MADE BY THE DEPARTMENT OF REVENUE; TO REVISE CERTAIN
17 PROVISIONS REGARDING THE IMPOSITION OF A PENALTY AGAINST RAILROADS
18 OR OTHER PUBLIC SERVICE CORPORATIONS FOR FAILURE TO FILE THE
19 REQUIRED SCHEDULES OF PROPERTY FOR AD VALOREM TAX ASSESSMENT
20 PURPOSES; TO AMEND SECTION 27-35-513, MISSISSIPPI CODE OF 1972, TO
21 REVISE CERTAIN PROVISIONS REGARDING THE IMPOSITION OF A PENALTY
22 AGAINST RAILROAD CAR COMPANIES FOR FAILURE TO FILE REQUIRED
23 STATEMENTS WITH THE DEPARTMENT OF REVENUE FOR AD VALOREM TAX
24 ASSESSMENT PURPOSES; TO AMEND SECTION 27-35-703, MISSISSIPPI CODE
25 OF 1972, TO REVISE THE DATE BY WHICH AIRLINE COMPANIES MUST FILE
26 WITH THE DEPARTMENT OF REVENUE FOR AD VALOREM TAX ASSESSMENT
27 PURPOSES SCHEDULES OF AIRCRAFT OPERATED IN THIS STATE BY SUCH
28 COMPANIES; TO REVISE THE LENGTH OF TIME THAT ASSESSMENTS MADE BY
29 THE DEPARTMENT OF REVENUE OF SUCH AIRCRAFT SHALL REMAIN OPEN FOR
30 OBJECTION; AND FOR RELATED PURPOSES.

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



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

34 27-35-301. The * * * Department of Revenue is constituted
35 state * * * assessor of railroads and other public service
36 corporations, and * * * it shall, upon the receipt or making of
37 the schedules hereinafter provided for, assess the property of
38 railroads, telegraph, telephone, sleeping car, express, electric
39 power and light companies and other public service corporations
40 liable to taxation in the state, affixing its * * * value for the
41 purposes of ad valorem taxation so that such property shall bear
42 its just proportion of taxation, taking into consideration the
43 value of the franchise and the capital engaged in the business in
44 this state. The state * * * assessor of railroads and other
45 public service corporations may adopt other and further rules
46 necessary and proper to ascertain the value of property to be
47 assessed by * * * it, including the value of the franchise and
48 amount of capital engaged in the business in this state.
49 Provided, however, the * * * Department of Revenue shall be * * *
50 the assessor of railroad and Class IV public service property, but
51 shall not be the * * * assessor of the types and kinds of
52 properties owned by the public service corporations and appraised
53 and assessed by county tax assessors pursuant to Sections
54 27-35-331 through 27-35-341.

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



57 27-35-303. (1) Each person, firm, company or corporation
58 owning and/or operating a railroad, oil or gas pipeline company,
59 electric company or any other company listed in Section 27-35-301,
60 owning property not situated wholly in one (1) county; and any
61 telephone company owning property in more than six (6) counties
62 shall, on or before the first * * * day of April in each year,
63 file with the * * * Department of Revenue a complete schedule,
64 under oath, on forms prescribed and furnished by the * * *
65 Department of Revenue, of all its property, real or personal,
66 taxable and nontaxable, owned by it on the first day of the
67 preceding January, setting forth therein the value of the whole,
68 the total amount of capital stock, its par value and its actual
69 value, and the value of its franchise, the gross amount of
70 receipts in the year preceding; all real, personal or mixed
71 property belonging to the company within the state, not
72 enumerated, with its value; a list of all lands in this state
73 owned, describing the same and giving the value thereof, the gross
74 amount of receipts the year preceding earned within and from this
75 state; and if any of said property is claimed to be exempt from
76 taxation, it shall be separately stated and valued, and the law
77 cited under which the claim is made. It shall not be necessary
78 that a rendition on any motor vehicles be made as defined by the
79 "Motor Vehicle Ad Valorem Tax Law of 1958." In addition to these
80 required schedules, the * * * Department of Revenue may require
81 each person, firm, company or corporation to file with the * * *



82 Department of Revenue a copy of any annual report or form required
83 to be filed by him with any federal regulatory agency. The * * *
84 Department of Revenue may grant an extension of up to * * * twenty
85 (20) days for the filing of the schedules required by this
86 section.

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

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

92 27-35-305. If any company, corporation, firm or person, who
93 is required by law to render schedules of its, their or his
94 property to the * * * Department of Revenue, as provided by
95 Section 27-35-303, Mississippi Code of 1972, for the purposes of
96 assessment for taxation, shall fail, refuse or neglect to render
97 the schedules, as required, the Department of Revenue may impose
98 on such company, corporation, firm or person * * * a penalty * * *
99 of ten percent (10%) of the assessment as computed by the * * *
100 department, and in case of such failure, refusal or neglect,
101 the * * * department shall make out such schedules from the best
102 information obtainable.

103 **SECTION 4.** Section 27-35-309, Mississippi Code of 1972, is
104 amended as follows:

105 27-35-309. (1) The Department of Revenue shall, if
106 practicable, on or before the first Monday of June of each year,



107 make out for each person, firm, company or corporation listed in
108 Section 27-35-303, Mississippi Code of 1972, an assessment of the
109 company's property, both real and personal, tangible and
110 intangible. The Department of Revenue shall apportion the
111 assessment of value of each company's property according to the
112 provisions of this article, except as provided in subsection (3)
113 of this section, as follows:

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

124 (b) When the property of such public utility required
125 to be assessed by the provisions of this article is located in
126 more than one (1) state, the assessed value thereof shall be
127 apportioned by the Department of Revenue in such manner as will
128 fairly and equitably determine the principal sum for the value
129 thereof in this state, and after ascertaining such value it shall
130 be apportioned by them as herein provided.



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

136 (2) (a) The assessment when made shall remain open
137 for * * * twenty (20) days in the Office of the Department of
138 Revenue, and be for such time subject to the objections thereto
139 which may be filed with the Executive Director of the Board of Tax
140 Appeals; but real estate belonging to railroads and which forms no
141 part of the road, and is wholly disconnected from its railroad
142 business, shall not be assessed by the Department of Revenue, but
143 shall be assessed as other real estate is assessed by the tax
144 assessor of the county where situated.

145 (b) The apportionment of the assessed value as required
146 by this section shall be filed with the Department of Revenue by
147 such public service company on or before the * * * last day of the
148 objection period established in paragraph (a) of this subsection
149 (2). If such company shall fail, refuse or neglect to render the
150 apportionment of assessed value as required by this section, such
151 company shall be subject to the penalties provided for in Section
152 27-35-305. The filing of an objection by such public service
153 company shall not preclude such company from filing the property
154 apportionment as required by this section.



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

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

(b) On or before February 1, 1987, for the 1986 taxable year and on or before February 1 of each year through the 1989



taxable year, such utility shall pay to the Department of Revenue a sum equal to two percent (2%) of the assessed value as ascertained by the Department of Revenue, but such payment shall not be less than Sixteen Million Dollars (\$16,000,000.00) for any of the four (4) taxable years; all such payments in excess of Sixteen Million Dollars (\$16,000,000.00) for these four (4) taxable years shall be paid into the General Fund of the state. On or before February 1, 1991, for the 1990 taxable year and on or before February 1 of each year thereafter, such utility shall pay to the Department of Revenue a sum equal to two percent (2%) of the assessed value as ascertained by the Department of Revenue, but such payment shall not be less than Twenty Million Dollars (\$20,000,000.00) for any taxable year for as long as such nuclear power plant is licensed to operate and is not being permanently decommissioned; all such payments in excess of Sixteen Million Dollars (\$16,000,000.00) for taxable years 1990 and thereafter shall be paid as follows:

(i) An amount of Three Million Forty Thousand Dollars (\$3,040,000.00) annually, beginning with fiscal year 1991, shall be transferred by the Department of Revenue to Claiborne County. Such payments may be expended by the Board of Supervisors of Claiborne County for any purpose for which a county is authorized by law to levy an ad valorem tax and shall not be included or considered as proceeds of ad valorem taxes for the purposes of the growth limitation on ad valorem taxes under



Sections 27-39-305 and 27-39-321. However, should the Board of Supervisors of Claiborne County withdraw its support of the Grand Gulf Nuclear Station off-site emergency plan or otherwise fail to satisfy its off-site emergency plan commitments as determined by the Mississippi Emergency Management Agency and the Federal Emergency Management Agency, Five Hundred Thousand Dollars (\$500,000.00) annually of the funds designated for Claiborne County as described by this subsection (i) shall be deposited in the Grand Gulf Disaster Assistance Fund as provided in Section 33-15-51.

(ii) An amount of One Hundred Sixty Thousand Dollars (\$160,000.00) annually, beginning with fiscal year 1991, shall be transferred by the Department of Revenue to the City of Port Gibson, Mississippi. Such payments may be expended by the Board of Aldermen of the City of Port Gibson for any purpose for which a municipality is authorized by law to levy an ad valorem tax and shall not be included or considered as proceeds of ad valorem taxes for the purposes of the growth limitation on ad valorem taxes under Sections 27-39-305 and 27-39-321. However, should the Board of Aldermen of the City of Port Gibson withdraw its support of the Grand Gulf Nuclear Station off-site emergency plan or otherwise fail to satisfy its off-site emergency plan commitment, as determined by the Mississippi Emergency Management Agency and the Federal Emergency Management Agency, Fifty Thousand Dollars (\$50,000.00) annually of the funds designated for the City



of Port Gibson as described by this subsection (ii) shall be deposited in the Grand Gulf Disaster Assistance Fund as provided in Section 33-15-51.

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

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



June 26, 1990], in the Chancery Court for the First Judicial District of Hinds County, Mississippi, styled Albert Butler et al v. the Mississippi State Tax Commission et al, and the deposit into the State General Fund of in-lieu payments and interest thereon due the state under subsection (3)(b) of this section but placed in escrow because of the lawsuit described above, the state shall promptly transfer to the Board of Supervisors of Claiborne County out of the State General Fund an amount of Two Million Dollars (\$2,000,000.00) which shall be a one-time distribution to Claiborne County from the state. Such payment may be expended by the Board of Supervisors of Claiborne County for any purposes for which a county is authorized by law to levy an ad valorem tax and shall not be included or considered as proceeds of ad valorem taxes for the purposes of the growth limitation on ad valorem taxes for the 1991 fiscal year under Sections 27-39-321 and 27-39-305.

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



(e) After distribution of the one-time payment to Claiborne County as set forth in subsection (3)(c) of this section and the payment to the Grand Gulf Disaster Assistance Trust Fund as set forth in subsection (3)(d) of this section, the Department of Revenue upon certification that the pending lawsuit as described in subsection (3)(c) of this section has been voluntarily dismissed shall promptly distribute ten percent (10%) of the remainder of the prior payments remaining in escrow to the General Fund of the state and the balance of the prior payments remaining in escrow shall be distributed to the counties and municipalities in this state wherein such public utility has rendered electric service in the proportion that the amount of electric energy consumed by the retail customers of such public utility in each county, excluding municipalities therein, and in each municipality, for the next preceding fiscal year bears to the total amount of electric energy consumed by all retail customers of such public utility in the State of Mississippi for the next preceding fiscal year. The payments distributed to the counties and municipalities under this paragraph (e) may be expended by such counties and municipalities for any lawful purpose and shall not be included or considered as proceeds of ad valorem taxes for the purposes of the growth limitation on ad valorem taxes under Sections 27-39-321 and 27-39-305.

(f) After distribution of the payments for fiscal year 1991 as set forth in Section 19-9-151 and distribution of the



305 payments as provided for in subsection (3)(b) of this section, the
306 Department of Revenue shall distribute ten percent (10%) of the
307 remainder of the payments to the General Fund of the state and the
308 balance to the counties and municipalities in this state wherein
309 such public utility renders electric service in the proportion
310 that the amount of electric energy consumed by the retail
311 customers of such public utility in each county, excluding
312 municipalities therein, and in each municipality for the next
313 preceding fiscal year bears to the total amount of electric energy
314 consumed by all retail customers of such public utility in the
315 State of Mississippi for the next preceding fiscal year.

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

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

324 **SECTION 5.** Section 27-35-311, Mississippi Code of 1972, is
325 amended as follows:

326 27-35-311. (1) It shall be the duty of the Board of Tax
327 Appeals to hear and determine objections to assessments made by
328 the Department of Revenue for ad valorem tax purposes. They may,



if they think objections just, sustain the same and amend assessments, if necessary accordingly.

(2) Any objection shall be in writing and filed with the Executive Director of the Board of Tax Appeals within the * * * twenty-day period set out in Section 27-35-309(2)(a). At the time of filing the objection with the Executive Director of the Board of Tax Appeals, the taxpayer shall specify in detail the relief requested and present the basis of any arguments against the Department of Revenue's assessment. The taxpayer shall also file a copy of his written objection with the Department of Revenue.

SECTION 6. Section 27-35-313, Mississippi Code of 1972, is amended as follows:

27-35-313. So soon as the assessment rolls have remained subject to objection for * * * twenty (20) days, and when all objections, if any, are disposed of, the assessment rolls shall be approved by the Department of Revenue, and a certified copy of the assessment rolls shall be sent immediately to the clerks of the board of supervisors of the respective counties, who shall file and preserve it as a record.

SECTION 7. Section 27-35-325, Mississippi Code of 1972, is amended as follows:

27-35-325. The Department of Revenue is hereby authorized and empowered and it shall be its duty to assess any property required to be assessed by the Department of Revenue as the state assessor of railroads, which it discovers escaping taxation in



354 former years by reason of not being assessed; and to assess or
355 cause to be assessed and taxed, any such property which it
356 discovers escaping taxation by reason of not being assessed in or
357 for the benefit of any road district, school district, or other
358 taxing district or municipality, although the property may have
359 been assessed and taxed for state and general county taxes;
360 however, the right to so assess property shall expire at the end
361 of seven (7) years from the date when the right so to do first
362 accrued. When any property is discovered escaping assessment and
363 taxation which, under the law, is required to be assessed by the
364 Department of Revenue as state assessor of railroads, the
365 Department of Revenue shall assess the same for such purpose and
366 for the years it has escaped taxation, and shall give notice by
367 United States mail, or otherwise, by the Commissioner of Revenue
368 of the Department of Revenue to the owner of the property, or
369 agent, of such owner, showing what property has escaped assessment
370 and for what years, and all other proper information, and the
371 owner shall have * * * twenty (20) days in which to file
372 objections. The Department of Revenue shall deal with the
373 assessment in all respects with the same powers as if made at the
374 time regular assessment of such property is made, and shall have
375 power to require such information as it may desire for the correct
376 determination of all questions before it. When any objection is
377 heard and determined, the Board of Tax Appeals shall by order
378 approve or disapprove, or may modify the assessment, and make it



379 final. If no objection is made in regard to the assessment or if
380 the assessment is approved or modified by the Board of Tax
381 Appeals, the Department of Revenue shall certify it to the clerk
382 of the board of supervisors of the county or counties where the
383 property is located, and such assessment shall be dealt with by
384 the clerk and tax collector as is required in cases of assessments
385 when made at the regular time. In all cases where suit is
386 necessary, it shall be the duty of the Attorney General to
387 represent the Department of Revenue whenever requested to do so.

388 **SECTION 8.** Section 27-35-513, Mississippi Code of 1972, is
389 amended as follows:

390 27-35-513. If any company shall fail, or refuse, to make and
391 file any statements required by law or any other statement
392 demanded by the * * * Department of Revenue on or before the time
393 required by Section 27-35-509, Mississippi Code of 1972, such
394 company * * * may be assessed a penalty of * * * ten percent (10%)
395 on the tax as computed by the * * * Department of Revenue, and in
396 case of such failure, neglect or refusal, the * * * department may
397 make out an assessment against the company or companies, from the
398 best information available.

399 **SECTION 9.** Section 27-35-703, Mississippi Code of 1972, is
400 amended as follows:

401 27-35-703. (1) The department shall annually assess,
402 adjust, equalize and apportion the valuation of all aircraft of
403 each airline company of a type or model operated in this state by



404 such airline company by such type or model. Such aircraft shall
405 be valued by the department in the same manner as other personal
406 property in the state is valued.

407 (2) Each airline company shall file with the department, on
408 or before the first * * * day of April of each year, a complete
409 schedule of all aircraft of a type or model operated in this state
410 by such company. Such schedule shall be made under oath on forms
411 prescribed and furnished by the department. If any airline
412 company shall fail, refuse or neglect to file the required
413 schedules, such company may be penalized in the manner provided
414 for in Section 27-35-305.

415 (3) The assessment when made and completed shall remain open
416 for * * * twenty (20) days for inspection in the offices of the
417 Department of Revenue and be subject to objections by the airline
418 companies for the same time period. The Board of Tax Appeals
419 shall hear all objections, and it may increase or decrease any
420 assessment if such action appears to be necessary and proper.

421 (4) Any objection shall be in writing and filed with the
422 Executive Director of the Board of Tax Appeals within the * * *
423 twenty-day period set out in subsection (3) of this section for
424 objections. At the time of filing the objection with the
425 Executive Director of the Board of Tax Appeals, the taxpayer shall
426 also file a copy of his written objection with the Department of
427 Revenue.



428 **SECTION 10.** This act shall take effect and be in force from
429 and after January 1, 2020.

