

By: Representatives Lancaster, Stamps

To: Energy; Ways and Means

HOUSE BILL NO. 1063
(As Passed the House)

1 AN ACT TO AUTHORIZE THE BOARD OF SUPERVISORS OF ANY
2 QUALIFYING COUNTY TO DESIGNATE PROJECTS AS TRANSFORMATIVE
3 RENEWABLE ENERGY PROJECTS; TO PROVIDE THE ASSESSMENT RATIO FOR
4 PROPERTY OWNED BY TRANSFORMATIVE ENERGY PROJECTS; TO AMEND SECTION
5 27-35-4, MISSISSIPPI CODE OF 1972, WHICH RELATES TO RATES OF
6 ASSESSMENT FOR PROPERTY, TO CONFORM; TO BRING FORWARD SECTION
7 27-31-104, MISSISSIPPI CODE OF 1972, WHICH RELATES TO GRANT OF
8 FEE-IN-LIEU OF TAXES FOR CERTAIN PROJECTS, FOR PURPOSES OF
9 AMENDMENT; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** (1) Notwithstanding the provisions of Section
12 27-35-4, Mississippi Code of 1972, that fix the assessment ratio
13 of property for ad valorem tax purposes, property owned by a
14 designated transformative renewable energy project shall be
15 assessed at eight percent (8%) of true value for ad valorem taxes.
16 Such assessment ratio shall be used in calculating any payments
17 under a fee-in-lieu of ad valorem taxes agreement under Section
18 27-31-104, Mississippi Code of 1972.

19 (2) The assessment ratio established under this section
20 shall remain in full force and effect for any designated
21 transformative renewable energy projects for as long as any



22 fee-in-lieu of ad valorem taxes agreement between the project and
23 a qualifying county remain in effect.

24 As used in this section, the term "transformative renewable
25 energy project" means a project that proposes to invest at least
26 \$100 million (\$100,000,000.00) in generating renewable energy
27 within any county and that has been designated as such by the
28 board of supervisors by resolution.

29 As used in this section, the term "qualifying county" means a
30 county in Mississippi located north of United States Highway 82
31 with a 2010 population between nine thousand (9,000) and nineteen
32 thousand (19,000) as determined by the 2010 federal decennial
33 census, and a current population between nine thousand (9,000) and
34 nineteen thousand (19,000), as determined by the latest estimates
35 from the United States Census Bureau.

36 (3) The authority of the board of supervisors of a
37 qualifying county to designate transformative renewable energy
38 projects shall expire on December 31, 2022.

39 **SECTION 2.** Section 27-35-4, Mississippi Code of 1972, is
40 amended as follows:

41 27-35-4. (1) All Class I property, as defined in Section
42 112, Mississippi Constitution of 1890, shall be assessed at the
43 rate of ten percent (10%) of true value.

44 (2) Except as otherwise provided in Section 1 of this act,
45 all Class II property and Class III property, as defined in



Section 112, Mississippi Constitution of 1890, shall be assessed at the rate of fifteen percent (15%) of true value.

(3) All Class IV property and Class V property, as defined in Section 112, Mississippi Constitution of 1890, shall be assessed at the rate of thirty percent (30%) of true value.

SECTION 3. Section 27-31-104, Mississippi Code of 1972, is brought forward as follows:

[Through June 30, 2022, this section shall read as follows:]

27-31-104. (1) (a) County boards of supervisors and municipal authorities are each hereby authorized and empowered to enter into an agreement with an enterprise granting, and pursuant to such agreement grant a fee-in-lieu of ad valorem taxes, including ad valorem taxes levied for school purposes, for the following:

(i) Projects totaling over Sixty Million Dollars (\$60,000,000.00) by any new enterprises enumerated in Section 27-31-101;

(ii) Projects by a private company (as such term is defined in Section 57-61-5) having a minimum capital investment of Sixty Million Dollars (\$60,000,000.00);

(iii) Projects by a qualified business (as such term is defined in Section 57-117-3) meeting minimum criteria established by the Mississippi Development Authority;

(iv) Projects, in addition to those projects referenced in Section 27-31-105, totaling over Sixty Million



Dollars (\$60,000,000.00) by an existing enterprise that has been doing business in the county or municipality for twenty-four (24) months. For purposes of this subparagraph (iv), the term "existing enterprise" includes those enterprises enumerated in Section 27-31-101; or

(v) A private company (as such term is defined in Section 57-61-5) having a minimum capital investment of One Hundred Million Dollars (\$100,000,000.00) from any source or combination of sources, provided that a majority of the capital investment is from private sources, when such project is located within a geographic area for which a Presidential Disaster Declaration was issued on or after January 1, 2014.

(b) A fee-in-lieu of ad valorem taxes granted in accordance with this section may include any or all tangible property, real or personal, including any leasehold interests therein but excluding automobiles and trucks operating on and over the highways of the State of Mississippi, used in connection with, or necessary to, the operation of any enterprise, private company or business described in paragraph (a) of this subsection (1), as applicable, whether or not such property is owned, leased, subleased, licensed or otherwise obtained by such enterprise, private company or business, as applicable, irrespective of the taxpayer to which any such leased property is assessed for ad valorem tax purposes. If a fee-in-lieu of ad valorem taxes is granted pursuant to this section with respect to any leasehold



96 interest under a lease, sublease or license of tangible property
97 used in connection with, or necessary to, the operation of an
98 enterprise, private company or business described in paragraph (a)
99 of this subsection (1), as applicable, the corresponding ownership
100 interest of the owner, lessor and sublessor of such tangible
101 property shall similarly and automatically be exempt and subject
102 to the fee-in-lieu granted in accordance herewith without any
103 action being required to be taken by such owner, lessor or
104 sublessor.

105 (2) A county board of supervisors may enter into a
106 fee-in-lieu agreement on behalf of the county and any county
107 school district, and a municipality may enter into such a
108 fee-in-lieu agreement on behalf of the municipality and any
109 municipal school district located in the municipality; however, if
110 the project is located outside the limits of a municipality but
111 within the boundaries of the municipal school district, then the
112 county board of supervisors may enter into such a fee-in-lieu
113 agreement on behalf of the school district granting a fee-in-lieu
114 of ad valorem taxes for school district purposes.

115 (3) Any grant of a fee-in-lieu of ad valorem taxes shall be
116 evidenced by a written agreement negotiated by the enterprise and
117 the county board of supervisors and/or municipal authority, as the
118 case may be, and given final approval by the Mississippi
119 Development Authority as satisfying the requirements of this
120 section.



(4) The minimum sum allowable as a fee-in-lieu shall not be less than one-third (1/3) of the ad valorem levy, including ad valorem taxes for school district purposes, and except as otherwise provided, the sum allowed shall be apportioned between the county or municipality, as appropriate, and the school districts in such amounts as may be determined by the county board of supervisors or municipal governing authority, as the case may be, however, except as otherwise provided in this section, from the sum allowed the apportionment to school districts shall not be less than the school districts' pro rata share based upon the proportion that the millage imposed for the school districts by the appropriate levying authority bears to the millage imposed by such levying authority for all other county or municipal purposes. Any fee-in-lieu agreement entered into under this section shall become a binding obligation of the parties to the agreement, be effective upon its execution by the parties and approval by the Mississippi Development Authority and, except as otherwise provided in Section 17-25-23 or Section 57-75-33, or any other provision of law, continue in effect for a period not to exceed thirty (30) years commencing on the date that the fee-in-lieu granted thereunder begins in accordance with the agreement; however, no particular parcel of land, real property improvement or item of personal property shall be subject to a fee-in-lieu for a duration of more than ten (10) years. Any such agreement shall be binding, according to its terms, on future boards of



supervisors of the county and/or governing authorities of a municipality, as the case may be, for the duration of the agreement.

(5) The fee-in-lieu may be a stated fraction or percentage of the ad valorem taxes otherwise payable or a stated dollar amount. If the fee is a fraction or percentage of the ad valorem tax levy, it shall be annually computed on all ad valorem taxes otherwise payable, including school taxes, as the same may vary from year to year based upon changes in the millage rate or assessed value and shall not be less than one-third (1/3) of that amount. If the fee is a stated dollar amount, said amount shall be the higher of the sum provided for fixed payment or one-third (1/3) of the total of all ad valorem taxes otherwise payable as annually determined during each year of the fee-in-lieu.

(6) Notwithstanding Section 27-31-111, the parties to a fee-in-lieu may agree on terms and conditions providing for the reduction, suspension, termination or reinstatement of a fee-in-lieu agreement or any fee-in-lieu period granted thereunder upon the cessation of operations by project for twelve (12) or more consecutive months or due to other conditions set forth in the agreement.

(7) For a project as defined in Section 57-75-5(f)(xxi) and located in a county that is a member of a regional economic development alliance created under Section 57-64-1 et seq., the members of the regional economic development alliance may divide



the sum allowed as a fee-in-lieu in a manner as determined by the alliance agreement, and the boards of supervisors of the member counties may then apportion the sum allowed between school district purposes and all other county purposes.

(8) For a project as defined in Section 57-75-5(f)(xxvi), the board of supervisors of the county in which the project is located may negotiate with the school district in which the project is located and apportion to the school district an amount of the fee-in-lieu that is agreed upon in the negotiations different than the amount provided for in subsection (3) of this section.

(9) For a project as defined in Section 57-75-5(f)(xxviii), the annual amount of the fee-in-lieu apportioned to the county shall not be less than the amount necessary to pay the debt service on bonds issued by the county pursuant to Section 57-75-37(3)(c).

(10) Any fee-in-lieu of ad valorem taxes granted under this section before the effective date of this act, and consistent herewith, is hereby ratified, approved and confirmed.

[From and after July 1, 2022, this section shall read as follows:]

27-31-104. (1) (a) County boards of supervisors and municipal authorities are each hereby authorized and empowered to enter into an agreement with an enterprise granting, and pursuant to such agreement grant a fee-in-lieu of ad valorem taxes,



including ad valorem taxes levied for school purposes, for the following:

(i) Projects totaling over Sixty Million Dollars (\$60,000,000.00) by any new enterprises enumerated in Section 27-31-101;

(ii) Projects by a private company (as such term is defined in Section 57-61-5, Mississippi Code of 1972) having a minimum capital investment of Sixty Million Dollars (\$60,000,000.00);

(iii) Projects, in addition to those projects referenced in Section 27-31-105, totaling over Sixty Million Dollars (\$60,000,000.00) by an existing enterprise that has been doing business in the county or municipality for twenty-four (24) months. For purposes of this subparagraph (iii), the term "existing enterprise" includes those enterprises enumerated in Section 27-31-101; or

(iv) A private company (as such term is defined in Section 57-61-5) having a minimum capital investment of One Hundred Million Dollars (\$100,000,000.00) from any source or combination of sources, provided that a majority of the capital investment is from private sources, when such project is located within a geographic area for which a Presidential Disaster Declaration was issued on or after January 1, 2014.

(b) A fee-in-lieu of ad valorem taxes granted in accordance with this section may include any or all tangible



property, real or personal, including any leasehold interests therein but excluding automobiles and trucks operating on and over the highways of the State of Mississippi, used in connection with, or necessary to, the operation of any enterprise, private company or business described in paragraph (a) of this subsection (1), as applicable, whether or not such property is owned, leased, subleased, licensed or otherwise obtained by such enterprise, private company or business, as applicable, irrespective of the taxpayer to which any such leased property is assessed for ad valorem tax purposes. If a fee-in-lieu of ad valorem taxes is granted pursuant to this section with respect to any leasehold interest under a lease, sublease or license of tangible property used in connection with, or necessary to, the operation of an enterprise, private company or business described in paragraph (a) of this subsection (1), as applicable, the corresponding ownership interest of the owner, lessor and sublessor of such tangible property shall similarly and automatically be exempt and subject to the fee-in-lieu granted in accordance herewith without any action being required to be taken by such owner, lessor or sublessor.

(2) A county board of supervisors may enter into a fee-in-lieu agreement on behalf of the county and any county school district, and a municipality may enter into such a fee-in-lieu agreement on behalf of the municipality and any municipal school district located in the municipality; however, if



the project is located outside the limits of a municipality but within the boundaries of the municipal school district, then the county board of supervisors may enter into such a fee-in-lieu agreement on behalf of the school district granting a fee-in-lieu of ad valorem taxes for school district purposes.

(3) Any grant of a fee-in-lieu of ad valorem taxes shall be evidenced by a written agreement negotiated by the enterprise and the county board of supervisors and/or municipal authority, as the case may be, and given final approval by the Mississippi Development Authority as satisfying the requirements of this section.

(4) The minimum sum allowable as a fee-in-lieu shall not be less than one-third (1/3) of the ad valorem levy, including ad valorem taxes for school district purposes, and except as otherwise provided, the sum allowed shall be apportioned between the county or municipality, as appropriate, and the school districts in such amounts as may be determined by the county board of supervisors or municipal governing authority, as the case may be, however, except as otherwise provided in this section, from the sum allowed the apportionment to school districts shall not be less than the school districts' pro rata share based upon the proportion that the millage imposed for the school districts by the appropriate levying authority bears to the millage imposed by such levying authority for all other county or municipal purposes. Any fee-in-lieu agreement entered into under this section shall



become a binding obligation of the parties to the agreement, be effective upon its execution by the parties and approval by the Mississippi Development Authority and, except as otherwise provided in Section 17-25-23 or Section 57-75-33, or any other provision of law, continue in effect for a period not to exceed thirty (30) years commencing on the date that the fee-in-lieu granted thereunder begins in accordance with the agreement; however, no particular parcel of land, real property improvement or item of personal property shall be subject to a fee-in-lieu for a duration of more than ten (10) years. Any such agreement shall be binding, according to its terms, on future boards of supervisors of the county and/or governing authorities of a municipality, as the case may be, for the duration of the agreement.

(5) The fee-in-lieu may be a stated fraction or percentage of the ad valorem taxes otherwise payable or a stated dollar amount. If the fee is a fraction or percentage of the ad valorem tax levy, it shall be annually computed on all ad valorem taxes otherwise payable, including school taxes, as the same may vary from year to year based upon changes in the millage rate or assessed value and shall not be less than one-third (1/3) of that amount. If the fee is a stated dollar amount, said amount shall be the higher of the sum provided for fixed payment or one-third (1/3) of the total of all ad valorem taxes otherwise payable as annually determined during each year of the fee-in-lieu.



296 (6) Notwithstanding Section 27-31-111, the parties to a
297 fee-in-lieu may agree on terms and conditions providing for the
298 reduction, suspension, termination or reinstatement of a
299 fee-in-lieu agreement or any fee-in-lieu period granted thereunder
300 upon the cessation of operations by project for twelve (12) or
301 more consecutive months or due to other conditions set forth in
302 the agreement.

303 (7) For a project as defined in Section 57-75-5(f)(xxi) and
304 located in a county that is a member of a regional economic
305 development alliance created under Section 57-64-1 et seq., the
306 members of the regional economic development alliance may divide
307 the sum allowed as a fee-in-lieu in a manner as determined by the
308 alliance agreement, and the boards of supervisors of the member
309 counties may then apportion the sum allowed between school
310 district purposes and all other county purposes.

311 (8) For a project as defined in Section 57-75-5(f)(xxvi),
312 the board of supervisors of the county in which the project is
313 located may negotiate with the school district in which the
314 project is located and apportion to the school district an amount
315 of the fee-in-lieu that is agreed upon in the negotiations
316 different than the amount provided for in subsection (3) of this
317 section.

318 (9) For a project as defined in Section 57-75-5(f)(xxviii),
319 the annual amount of the fee-in-lieu apportioned to the county
320 shall not be less than the amount necessary to pay the annual debt



321 service on bonds issued by the county pursuant to Section
322 57-75-37(3) (c) .

323 (10) Any fee-in-lieu of ad valorem taxes granted under this
324 section before the effective date of this act, and consistent
325 herewith, is hereby ratified, approved and confirmed.

326 **SECTION 4.** This act shall take effect and be in force from
327 and after July 1, 2021.

