

House Amendments to Senate Bill No. 2895

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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

19 (2) The assessment rate established under this section shall
20 remain in full force and effect for any transformative renewable
21 energy projects for as long as any fee-in-lieu of ad valorem taxes
22 agreement between the project and a qualifying county remain in
23 effect.

24 As used in this section, the term "transformative renewable
25 energy project" means a project that proposes to invest at least
26 One Hundred Million Dollars (\$100,000,000.00) in generating
27 renewable energy within a qualifying county and that has been

28 designated as such by resolution of the board of supervisors of
29 that qualifying county.

30 As used in this section, the term "qualifying county" means a
31 county in Mississippi:

32 (a) Wholly located north of United States Highway 82;

33 (b) Located within fifty (50) miles of the Mississippi
34 state border;

35 (c) Either (i) bordering the Mississippi River, or (ii)
36 wholly east of United States Interstate 55; and

37 (d) With a population between eight thousand five
38 hundred (8,500) and nineteen thousand (19,000) as determined by
39 both the 2010 federal decennial census and the latest estimates
40 from the United States Census Bureau.

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

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

46 27-35-4. (1) All Class I property, as defined in Section
47 112, Mississippi Constitution of 1890, shall be assessed at the
48 rate of ten percent (10%) of true value.

49 (2) Except as otherwise provided in Section 1 of this act,
50 all Class II property and Class III property, as defined in
51 Section 112, Mississippi Constitution of 1890, shall be assessed
52 at the rate of fifteen percent (15%) of true value.

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

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

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

59 27-31-104. (1) (a) County boards of supervisors and
60 municipal authorities are each hereby authorized and empowered to
61 enter into an agreement with an enterprise granting, and pursuant
62 to such agreement grant a fee-in-lieu of ad valorem taxes,
63 including ad valorem taxes levied for school purposes, for the
64 following:

65 (i) Projects totaling over Sixty Million Dollars
66 (\$60,000,000.00) by any new enterprises enumerated in Section
67 27-31-101;

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

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

74 (iv) Projects, in addition to those projects
75 referenced in Section 27-31-105, totaling over Sixty Million
76 Dollars (\$60,000,000.00) by an existing enterprise that has been
77 doing business in the county or municipality for twenty-four (24)
78 months. For purposes of this subparagraph (iv), the term

79 "existing enterprise" includes those enterprises enumerated in
80 Section 27-31-101; or

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

88 (b) A fee-in-lieu of ad valorem taxes granted in
89 accordance with this section may include any or all tangible
90 property, real or personal, including any leasehold interests
91 therein but excluding automobiles and trucks operating on and over
92 the highways of the State of Mississippi, used in connection with,
93 or necessary to, the operation of any enterprise, private company
94 or business described in paragraph (a) of this subsection (1), as
95 applicable, whether or not such property is owned, leased,
96 subleased, licensed or otherwise obtained by such enterprise,
97 private company or business, as applicable, irrespective of the
98 taxpayer to which any such leased property is assessed for ad
99 valorem tax purposes. If a fee-in-lieu of ad valorem taxes is
100 granted pursuant to this section with respect to any leasehold
101 interest under a lease, sublease or license of tangible property
102 used in connection with, or necessary to, the operation of an
103 enterprise, private company or business described in paragraph (a)
104 of this subsection (1), as applicable, the corresponding ownership

105 interest of the owner, lessor and sublessor of such tangible
106 property shall similarly and automatically be exempt and subject
107 to the fee-in-lieu granted in accordance herewith without any
108 action being required to be taken by such owner, lessor or
109 sublessor.

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

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

126 (4) The minimum sum allowable as a fee-in-lieu shall not be
127 less than one-third (1/3) of the ad valorem levy, including ad
128 valorem taxes for school district purposes, and except as
129 otherwise provided, the sum allowed shall be apportioned between
130 the county or municipality, as appropriate, and the school

131 districts in such amounts as may be determined by the county board
132 of supervisors or municipal governing authority, as the case may
133 be, however, except as otherwise provided in this section, from
134 the sum allowed the apportionment to school districts shall not be
135 less than the school districts' pro rata share based upon the
136 proportion that the millage imposed for the school districts by
137 the appropriate levying authority bears to the millage imposed by
138 such levying authority for all other county or municipal purposes.
139 Any fee-in-lieu agreement entered into under this section shall
140 become a binding obligation of the parties to the agreement, be
141 effective upon its execution by the parties and approval by the
142 Mississippi Development Authority and, except as otherwise
143 provided in Section 17-25-23 or Section 57-75-33, or any other
144 provision of law, continue in effect for a period not to exceed
145 thirty (30) years commencing on the date that the fee-in-lieu
146 granted thereunder begins in accordance with the agreement;
147 however, no particular parcel of land, real property improvement
148 or item of personal property shall be subject to a fee-in-lieu for
149 a duration of more than ten (10) years. Any such agreement shall
150 be binding, according to its terms, on future boards of
151 supervisors of the county and/or governing authorities of a
152 municipality, as the case may be, for the duration of the
153 agreement.

154 (5) The fee-in-lieu may be a stated fraction or percentage
155 of the ad valorem taxes otherwise payable or a stated dollar
156 amount. If the fee is a fraction or percentage of the ad valorem

157 tax levy, it shall be annually computed on all ad valorem taxes
158 otherwise payable, including school taxes, as the same may vary
159 from year to year based upon changes in the millage rate or
160 assessed value and shall not be less than one-third (1/3) of that
161 amount. If the fee is a stated dollar amount, said amount shall
162 be the higher of the sum provided for fixed payment or one-third
163 (1/3) of the total of all ad valorem taxes otherwise payable as
164 annually determined during each year of the fee-in-lieu.

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

172 (7) For a project as defined in Section 57-75-5(f)(xxi) and
173 located in a county that is a member of a regional economic
174 development alliance created under Section 57-64-1 et seq., the
175 members of the regional economic development alliance may divide
176 the sum allowed as a fee-in-lieu in a manner as determined by the
177 alliance agreement, and the boards of supervisors of the member
178 counties may then apportion the sum allowed between school
179 district purposes and all other county purposes.

180 (8) For a project as defined in Section 57-75-5(f)(xxvi),
181 the board of supervisors of the county in which the project is
182 located may negotiate with the school district in which the

183 project is located and apportion to the school district an amount
184 of the fee-in-lieu that is agreed upon in the negotiations
185 different than the amount provided for in subsection (3) of this
186 section.

187 (9) For a project as defined in Section 57-75-5(f)(xxviii),
188 the annual amount of the fee-in-lieu apportioned to the county
189 shall not be less than the amount necessary to pay the debt
190 service on bonds issued by the county pursuant to Section
191 57-75-37(3)(c).

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

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

197 27-31-104. (1) (a) County boards of supervisors and
198 municipal authorities are each hereby authorized and empowered to
199 enter into an agreement with an enterprise granting, and pursuant
200 to such agreement grant a fee-in-lieu of ad valorem taxes,
201 including ad valorem taxes levied for school purposes, for the
202 following:

203 (i) Projects totaling over Sixty Million Dollars
204 (\$60,000,000.00) by any new enterprises enumerated in Section
205 27-31-101;

206 (ii) Projects by a private company (as such term
207 is defined in Section 57-61-5, Mississippi Code of 1972) having a

208 minimum capital investment of Sixty Million Dollars

209 (\$60,000,000.00);

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

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

224 (b) A fee-in-lieu of ad valorem taxes granted in
225 accordance with this section may include any or all tangible
226 property, real or personal, including any leasehold interests
227 therein but excluding automobiles and trucks operating on and over
228 the highways of the State of Mississippi, used in connection with,
229 or necessary to, the operation of any enterprise, private company
230 or business described in paragraph (a) of this subsection (1), as
231 applicable, whether or not such property is owned, leased,
232 subleased, licensed or otherwise obtained by such enterprise,
233 private company or business, as applicable, irrespective of the

234 taxpayer to which any such leased property is assessed for ad
235 valorem tax purposes. If a fee-in-lieu of ad valorem taxes is
236 granted pursuant to this section with respect to any leasehold
237 interest under a lease, sublease or license of tangible property
238 used in connection with, or necessary to, the operation of an
239 enterprise, private company or business described in paragraph (a)
240 of this subsection (1), as applicable, the corresponding ownership
241 interest of the owner, lessor and sublessor of such tangible
242 property shall similarly and automatically be exempt and subject
243 to the fee-in-lieu granted in accordance herewith without any
244 action being required to be taken by such owner, lessor or
245 sublessor.

246 (2) A county board of supervisors may enter into a
247 fee-in-lieu agreement on behalf of the county and any county
248 school district, and a municipality may enter into such a
249 fee-in-lieu agreement on behalf of the municipality and any
250 municipal school district located in the municipality; however, if
251 the project is located outside the limits of a municipality but
252 within the boundaries of the municipal school district, then the
253 county board of supervisors may enter into such a fee-in-lieu
254 agreement on behalf of the school district granting a fee-in-lieu
255 of ad valorem taxes for school district purposes.

256 (3) Any grant of a fee-in-lieu of ad valorem taxes shall be
257 evidenced by a written agreement negotiated by the enterprise and
258 the county board of supervisors and/or municipal authority, as the
259 case may be, and given final approval by the Mississippi

260 Development Authority as satisfying the requirements of this
261 section.

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

286 be binding, according to its terms, on future boards of
287 supervisors of the county and/or governing authorities of a
288 municipality, as the case may be, for the duration of the
289 agreement.

290 (5) The fee-in-lieu may be a stated fraction or percentage
291 of the ad valorem taxes otherwise payable or a stated dollar
292 amount. If the fee is a fraction or percentage of the ad valorem
293 tax levy, it shall be annually computed on all ad valorem taxes
294 otherwise payable, including school taxes, as the same may vary
295 from year to year based upon changes in the millage rate or
296 assessed value and shall not be less than one-third (1/3) of that
297 amount. If the fee is a stated dollar amount, said amount shall
298 be the higher of the sum provided for fixed payment or one-third
299 (1/3) of the total of all ad valorem taxes otherwise payable as
300 annually determined during each year of the fee-in-lieu.

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

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

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

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

323 (9) For a project as defined in Section 57-75-5(f) (xxviii),
324 the annual amount of the fee-in-lieu apportioned to the county
325 shall not be less than the amount necessary to pay the annual debt
326 service on bonds issued by the county pursuant to Section
327 57-75-37(3) (c) .

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

331 **SECTION 4.** This act shall take effect and be in force from
332 and after July 1, 2021, and shall stand repealed on June 29, 2021.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO PROVIDE AN AD VALOREM TAX ASSESSMENT RATE OF 8% OF
2 TRUE VALUE FOR PROPERTY OWNED BY A TRANSFORMATIVE RENEWABLE ENERGY
3 PROJECT DESIGNATED AS SUCH BY THE BOARD OF SUPERVISORS OF A
4 QUALIFYING COUNTY; TO AMEND SECTION 27-35-4, MISSISSIPPI CODE OF

5 1972, TO EXEMPT PROPERTY OWNED BY A TRANSFORMATIVE ENERGY PROJECT
6 FROM THE 15% ASSESSMENT RATE APPLYING TO CLASS II PROPERTY
7 GENERALLY; TO BRING FORWARD SECTION 27-31-104, MISSISSIPPI CODE OF
8 1972, WHICH RELATES TO GRANTS OF FEE-IN-LIEU OF AD VALOREM TAXES
9 FOR CERTAIN PROJECTS, FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND
10 FOR RELATED PURPOSES.

HR31\SB2895A.J

Andrew Ketchings
Clerk of the House of Representatives