

By: Representative Wright

To: Ways and Means

HOUSE BILL NO. 926

1 AN ACT TO BRING FORWARD SECTION 27-31-104, MISSISSIPPI CODE
 2 OF 1972, WHICH AUTHORIZES COUNTY BOARDS OF SUPERVISORS AND
 3 MUNICIPAL GOVERNING AUTHORITIES TO ENTER INTO FEE-IN-LIEU OF AD
 4 VALOREM TAXES AGREEMENTS WITH ENTERPRISES FOR CERTAIN PROJECTS,
 5 FOR THE PURPOSES OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTION
 6 27-31-105, MISSISSIPPI CODE OF 1972, WHICH AUTHORIZES COUNTY
 7 BOARDS OF SUPERVISORS AND MUNICIPAL GOVERNING AUTHORITIES TO GRANT
 8 AD VALOREM TAX EXEMPTIONS AND TO ENTER INTO FEE-IN-LIEU OF AD
 9 VALOREM TAXES AGREEMENTS WITH ENTERPRISES FOR CERTAIN PROJECT
 10 ADDITIONS AND EXPANSIONS, FOR THE PURPOSES OF POSSIBLE AMENDMENT.

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

12 **SECTION 1.** Section 27-31-104, Mississippi Code of 1972, is
 13 brought forward as follows:

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

15 27-31-104. (1) (a) County boards of supervisors and
 16 municipal authorities are each hereby authorized and empowered to
 17 enter into an agreement with an enterprise granting, and pursuant
 18 to such agreement grant a fee-in-lieu of ad valorem taxes,
 19 including ad valorem taxes levied for school purposes, for the
 20 following:



21 (i) Projects totaling over Sixty Million Dollars
22 (\$60,000,000.00) by any new enterprises enumerated in Section
23 27-31-101;

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

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

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

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

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



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

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



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

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

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



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

110 (5) The fee-in-lieu may be a stated fraction or percentage
111 of the ad valorem taxes otherwise payable or a stated dollar
112 amount. If the fee is a fraction or percentage of the ad valorem
113 tax levy, it shall be annually computed on all ad valorem taxes
114 otherwise payable, including school taxes, as the same may vary
115 from year to year based upon changes in the millage rate or
116 assessed value and shall not be less than one-third (1/3) of that
117 amount. If the fee is a stated dollar amount, said amount shall
118 be the higher of the sum provided for fixed payment or one-third
119 (1/3) of the total of all ad valorem taxes otherwise payable as
120 annually determined during each year of the fee-in-lieu.



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

128 (7) For a project as defined in Section 57-75-5(f)(xxi) and
129 located in a county that is a member of a regional economic
130 development alliance created under Section 57-64-1 et seq., the
131 members of the regional economic development alliance may divide
132 the sum allowed as a fee-in-lieu in a manner as determined by the
133 alliance agreement, and the boards of supervisors of the member
134 counties may then apportion the sum allowed between school
135 district purposes and all other county purposes.

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

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



146 service on bonds issued by the county pursuant to Section
147 57-75-37(3)(c).

148 (10) Any fee-in-lieu of ad valorem taxes granted under this
149 section before March 28, 2019, and consistent herewith, is hereby
150 ratified, approved and confirmed.

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

153 27-31-104. (1) (a) County boards of supervisors and
154 municipal authorities are each hereby authorized and empowered to
155 enter into an agreement with an enterprise granting, and pursuant
156 to such agreement grant a fee-in-lieu of ad valorem taxes,
157 including ad valorem taxes levied for school purposes, for the
158 following:

159 (i) Projects totaling over Sixty Million Dollars
160 (\$60,000,000.00) by any new enterprises enumerated in Section
161 27-31-101;

162 (ii) Projects by a private company (as such term
163 is defined in Section 57-61-5, Mississippi Code of 1972) having a
164 minimum capital investment of Sixty Million Dollars
165 (\$60,000,000.00);

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



171 "existing enterprise" includes those enterprises enumerated in
172 Section 27-31-101; or

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

180 (b) A fee-in-lieu of ad valorem taxes granted in
181 accordance with this section may include any or all tangible
182 property, real or personal, including any leasehold interests
183 therein but excluding automobiles and trucks operating on and over
184 the highways of the State of Mississippi, used in connection with,
185 or necessary to, the operation of any enterprise, private company
186 or business described in paragraph (a) of this subsection (1), as
187 applicable, whether or not such property is owned, leased,
188 subleased, licensed or otherwise obtained by such enterprise,
189 private company or business, as applicable, irrespective of the
190 taxpayer to which any such leased property is assessed for ad
191 valorem tax purposes. If a fee-in-lieu of ad valorem taxes is
192 granted pursuant to this section with respect to any leasehold
193 interest under a lease, sublease or license of tangible property
194 used in connection with, or necessary to, the operation of an
195 enterprise, private company or business described in paragraph (a)



196 of this subsection (1), as applicable, the corresponding ownership
197 interest of the owner, lessor and sublessor of such tangible
198 property shall similarly and automatically be exempt and subject
199 to the fee-in-lieu granted in accordance herewith without any
200 action being required to be taken by such owner, lessor or
201 sublessor.

202 (2) A county board of supervisors may enter into a
203 fee-in-lieu agreement on behalf of the county and any county
204 school district, and a municipality may enter into such a
205 fee-in-lieu agreement on behalf of the municipality and any
206 municipal school district located in the municipality; however, if
207 the project is located outside the limits of a municipality but
208 within the boundaries of the municipal school district, then the
209 county board of supervisors may enter into such a fee-in-lieu
210 agreement on behalf of the school district granting a fee-in-lieu
211 of ad valorem taxes for school district purposes.

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

218 (4) The minimum sum allowable as a fee-in-lieu shall not be
219 less than one-third (1/3) of the ad valorem levy, including ad
220 valorem taxes for school district purposes, and except as



221 otherwise provided, the sum allowed shall be apportioned between
222 the county or municipality, as appropriate, and the school
223 districts in such amounts as may be determined by the county board
224 of supervisors or municipal governing authority, as the case may
225 be, however, except as otherwise provided in this section, from
226 the sum allowed the apportionment to school districts shall not be
227 less than the school districts' pro rata share based upon the
228 proportion that the millage imposed for the school districts by
229 the appropriate levying authority bears to the millage imposed by
230 such levying authority for all other county or municipal purposes.
231 Any fee-in-lieu agreement entered into under this section shall
232 become a binding obligation of the parties to the agreement, be
233 effective upon its execution by the parties and approval by the
234 Mississippi Development Authority and, except as otherwise
235 provided in Section 17-25-23 or Section 57-75-33, or any other
236 provision of law, continue in effect for a period not to exceed
237 thirty (30) years commencing on the date that the fee-in-lieu
238 granted thereunder begins in accordance with the agreement;
239 however, no particular parcel of land, real property improvement
240 or item of personal property shall be subject to a fee-in-lieu for
241 a duration of more than ten (10) years. Any such agreement shall
242 be binding, according to its terms, on future boards of
243 supervisors of the county and/or governing authorities of a
244 municipality, as the case may be, for the duration of the
245 agreement.



246 (5) The fee-in-lieu may be a stated fraction or percentage
247 of the ad valorem taxes otherwise payable or a stated dollar
248 amount. If the fee is a fraction or percentage of the ad valorem
249 tax levy, it shall be annually computed on all ad valorem taxes
250 otherwise payable, including school taxes, as the same may vary
251 from year to year based upon changes in the millage rate or
252 assessed value and shall not be less than one-third (1/3) of that
253 amount. If the fee is a stated dollar amount, said amount shall
254 be the higher of the sum provided for fixed payment or one-third
255 (1/3) of the total of all ad valorem taxes otherwise payable as
256 annually determined during each year of the fee-in-lieu.

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

264 (7) For a project as defined in Section 57-75-5(f)(xxi) and
265 located in a county that is a member of a regional economic
266 development alliance created under Section 57-64-1 et seq., the
267 members of the regional economic development alliance may divide
268 the sum allowed as a fee-in-lieu in a manner as determined by the
269 alliance agreement, and the boards of supervisors of the member



270 counties may then apportion the sum allowed between school
271 district purposes and all other county purposes.

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

279 (9) For a project as defined in Section 57-75-5(f) (xxviii),
280 the annual amount of the fee-in-lieu apportioned to the county
281 shall not be less than the amount necessary to pay the annual debt
282 service on bonds issued by the county pursuant to Section
283 57-75-37(3) (c) .

284 (10) Any fee-in-lieu of ad valorem taxes granted under this
285 section before March 28, 2019, and consistent herewith, is hereby
286 ratified, approved and confirmed.

287 **SECTION 2.** Section 27-31-105, Mississippi Code of 1972, is
288 brought forward as follows:

289 27-31-105. (1) Any person, firm or corporation who owns or
290 operates a manufacturing or other enterprise of public utility as
291 enumerated in Section 27-31-101 and who makes additions to or
292 expansions of the facilities or properties or replaces equipment
293 used in connection with or necessary to the operation of such
294 enterprise may be granted an exemption from ad valorem taxation,



295 except state ad valorem taxation, ad valorem taxes for school
296 district purposes, and ad valorem taxes on the products thereof or
297 on automobiles and trucks belonging thereto and operating on and
298 over the highways of the State of Mississippi, upon each addition
299 to or expansion of the facility or property or replacement of
300 equipment, used in connection with, or necessary to, the operation
301 of an enterprise enumerated in Section 27-31-101, whether or not
302 such property is owned, leased, subleased, licensed or otherwise
303 obtained by such enterprise, irrespective of the taxpayer to which
304 any such leased property is assessed for ad valorem tax purposes,
305 within the discretion of the county board of supervisors and
306 municipal authorities; however, such governing authorities shall
307 not exempt ad valorem taxes for school district purposes on such
308 additions or expansions of the facility or property, or
309 replacement of equipment. If an exemption is granted pursuant to
310 this subsection (1) with respect to any leasehold interest under a
311 lease, sublease or license of tangible property used in connection
312 with, or necessary to, the operation of an enterprise enumerated
313 in Section 27-31-101, the corresponding ownership interest of the
314 owner, lessor and sublessor of such tangible property shall
315 similarly and automatically be exempt without any action being
316 required to be taken by such owner, lessor or sublessor. In order
317 to obtain the exemptions authorized by this section, a person,
318 firm or corporation shall follow the same procedure prescribed for
319 obtaining an exemption on a new enterprise, except as otherwise



320 provided in this section. For any additions, expansions or
321 replacements with reference to any particular new enterprise,
322 which have been completed during any calendar year, only one (1)
323 request must be made for the exemptions sought for the additions,
324 expansions or replacements. The time of the exemption shall
325 commence from the date of completion of the additions, expansions
326 or replacements, and shall extend for a period not to exceed ten
327 (10) years thereafter; however, boards of supervisors and
328 municipal authorities, in lieu of granting the exemption for one
329 (1) period of ten (10) years, may grant the exemption in
330 consecutive periods of five (5) years each, but the total of such
331 consecutive periods shall not exceed ten (10) years. The initial
332 request for an exemption must be made in writing by June 1 of the
333 year immediately following the year in which the additions,
334 expansions or replacements are completed. If the initial request
335 for the exemption is not timely made, the board of supervisors or
336 municipal authorities may grant a subsequent request for the
337 exemption and, in such case, the exemption shall begin on the
338 anniversary date of completion of the additions, expansions or
339 replacements in the year in which the request is made and may be
340 for a period of time extending not more than ten (10) years from
341 the date of completion of the additions, expansions or
342 replacements. Any subsequent request for the exemption must be
343 made in writing by June 1 of the year in which it is granted. Any
344 exemption from ad valorem taxes granted under this subsection (1)



345 before March 28, 2019, and consistent herewith, is hereby
346 ratified, approved and confirmed.

347 (2) For expansions of facilities or properties, or
348 replacement of equipment, county boards of supervisors and
349 municipal authorities may grant a fee in lieu of taxes in the same
350 manner, to the same extent, and with the same qualifying threshold
351 as provided for projects under Section 27-31-104, Mississippi Code
352 of 1972. Any fee-in-lieu of taxes granted under this subsection
353 (2) before March 28, 2019, and consistent herewith, is hereby
354 ratified, approved and confirmed.

355 **SECTION 3.** This act shall take effect and be in force from
356 and after July 1, 2022.

