

By: Senator(s) Turner-Ford

To: Finance

SENATE BILL NO. 3106

1 AN ACT TO AMEND SECTION 27-31-104, MISSISSIPPI CODE OF 1972,  
 2 TO AUTHORIZE COUNTY BOARDS OF SUPERVISORS AND MUNICIPAL  
 3 AUTHORITIES TO ENTER AGREEMENTS TO GRANT A FEE-IN-LIEU OF AD  
 4 VALOREM TAXES FOR ANY OWNER-OCCUPIED OR RENTAL HOME OR HOUSING  
 5 DEVELOPMENT, WHETHER SINGLE-FAMILY OR MULTIFAMILY; TO PROVIDE THAT  
 6 SUCH A FEE-IN-LIEU AGREEMENT MAY BE EFFECTIVE FOR A PERIOD OF UP  
 7 TO FIVE YEARS, BUT IN THE CASE OF A MULTIFAMILY RENTAL HOUSING  
 8 DEVELOPMENT WITH AT LEAST FOUR UNITS, OR IN THE CASE OF A HOME OR  
 9 HOUSING DEVELOPMENT INCORPORATING THE USE OF SOLAR POWER, SUCH A  
 10 FEE-IN-LIEU AGREEMENT MAY BE EFFECTIVE FOR A PERIOD OF UP TO TEN  
 11 YEARS; TO SPECIFY THAT, TO QUALIFY FOR SUCH A FEE-IN-LIEU  
 12 AGREEMENT, A HOME OR HOUSING DEVELOPMENT MUST COMPLY WITH ANY  
 13 APPLICABLE COMPREHENSIVE LAND-USE PLAN OR ZONING ORDINANCE AND MAY  
 14 NOT RECEIVE ANY OTHER FINANCIAL INCENTIVE FROM THE COUNTY OR  
 15 MUNICIPALITY GRANTING THE FEE-IN-LIEU; AND FOR RELATED PURPOSES.

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

17 **SECTION 1.** Section 27-31-104, Mississippi Code of 1972, is  
 18 amended as follows:

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

20 27-31-104. (1) (a) County boards of supervisors and  
 21 municipal authorities are each hereby authorized and empowered to  
 22 enter into an agreement with an enterprise granting, and pursuant  
 23 to such agreement grant a fee-in-lieu of ad valorem taxes,



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

26 (i) Projects totaling over Sixty Million Dollars  
27 (\$60,000,000.00) by any new enterprises enumerated in Section  
28 27-31-101;

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

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

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

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



49                   (vi) Any owner-occupied or rental home or housing  
50 development, whether single-family or multifamily. A fee-in-lieu  
51 agreement under this subparagraph may be effective for a period of  
52 up to five (5) years; provided, however, that in the case of a  
53 multifamily rental housing development with at least four (4)  
54 units, or in the case of a home or housing development  
55 incorporating the use of solar power, a fee-in-lieu agreement  
56 under this subparagraph may be effective for a period of up to ten  
57 (10) years. To qualify for a fee-in-lieu agreement under this  
58 subparagraph, a home or housing development must comply with any  
59 applicable comprehensive land-use plan or zoning ordinance and may  
60 not receive any other financial incentive from the county or  
61 municipality granting the fee-in-lieu.

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



74 granted pursuant to this section with respect to any leasehold  
75 interest under a lease, sublease or license of tangible property  
76 used in connection with, or necessary to, the operation of an  
77 enterprise, private company or business described in paragraph (a)  
78 of this subsection (1), as applicable, the corresponding ownership  
79 interest of the owner, lessor and sublessor of such tangible  
80 property shall similarly and automatically be exempt and subject  
81 to the fee-in-lieu granted in accordance herewith without any  
82 action being required to be taken by such owner, lessor or  
83 sublessor.

84 (2) A county board of supervisors may enter into a  
85 fee-in-lieu agreement on behalf of the county and any county  
86 school district, and a municipality may enter into such a  
87 fee-in-lieu agreement on behalf of the municipality and any  
88 municipal school district located in the municipality; however, if  
89 the project is located outside the limits of a municipality but  
90 within the boundaries of the municipal school district, then the  
91 county board of supervisors may enter into such a fee-in-lieu  
92 agreement on behalf of the school district granting a fee-in-lieu  
93 of ad valorem taxes for school district purposes.

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



98 Development Authority as satisfying the requirements of this  
99 section.

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



123 a duration of more than ten (10) years. Any such agreement shall  
124 be binding, according to its terms, on future boards of  
125 supervisors of the county and/or governing authorities of a  
126 municipality, as the case may be, for the duration of the  
127 agreement.

128 (5) The fee-in-lieu may be a stated fraction or percentage  
129 of the ad valorem taxes otherwise payable or a stated dollar  
130 amount. If the fee is a fraction or percentage of the ad valorem  
131 tax levy, it shall be annually computed on all ad valorem taxes  
132 otherwise payable, including school taxes, as the same may vary  
133 from year to year based upon changes in the millage rate or  
134 assessed value and shall not be less than one-third (1/3) of that  
135 amount. If the fee is a stated dollar amount, said amount shall  
136 be the higher of the sum provided for fixed payment or one-third  
137 (1/3) of the total of all ad valorem taxes otherwise payable as  
138 annually determined during each year of the fee-in-lieu.

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

146 (7) For a project as defined in Section 57-75-5(f)(xxi) and  
147 located in a county that is a member of a regional economic



148 development alliance created under Section 57-64-1 et seq., the  
149 members of the regional economic development alliance may divide  
150 the sum allowed as a fee-in-lieu in a manner as determined by the  
151 alliance agreement, and the boards of supervisors of the member  
152 counties may then apportion the sum allowed between school  
153 district purposes and all other county purposes.

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

161 (9) For a project as defined in Section 57-75-5(f) (xxviii),  
162 the annual amount of the fee-in-lieu apportioned to the county  
163 shall not be less than the amount necessary to pay the debt  
164 service on bonds issued by the county pursuant to Section  
165 57-75-37(3) (c) .

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

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

171 27-31-104. (1) (a) County boards of supervisors and  
172 municipal authorities are each hereby authorized and empowered to



173 enter into an agreement with an enterprise granting, and pursuant  
174 to such agreement grant a fee-in-lieu of ad valorem taxes,  
175 including ad valorem taxes levied for school purposes, for the  
176 following:

177 (i) Projects totaling over Sixty Million Dollars  
178 (\$60,000,000.00) by any new enterprises enumerated in Section  
179 27-31-101;

180 (ii) Projects by a private company (as such term  
181 is defined in Section 57-61-5, Mississippi Code of 1972) having a  
182 minimum capital investment of Sixty Million Dollars  
183 (\$60,000,000.00);

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

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





198                   (v) Any owner-occupied or rental home or housing  
199 development, whether single-family or multifamily. A fee-in-lieu  
200 agreement under this subparagraph may be effective for a period of  
201 up to five (5) years; provided, however, that in the case of a  
202 multifamily rental housing development with at least four (4)  
203 units, or in the case of a home or housing development  
204 incorporating the use of solar power, a fee-in-lieu agreement  
205 under this subparagraph may be effective for a period of up to ten  
206 (10) years. To qualify for a fee-in-lieu agreement under this  
207 subparagraph, a home or housing development must comply with any  
208 applicable comprehensive land-use plan or zoning ordinance and may  
209 not receive any other financial incentive from the county or  
210 municipality granting the fee-in-lieu.

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



223 granted pursuant to this section with respect to any leasehold  
224 interest under a lease, sublease or license of tangible property  
225 used in connection with, or necessary to, the operation of an  
226 enterprise, private company or business described in paragraph (a)  
227 of this subsection (1), as applicable, the corresponding ownership  
228 interest of the owner, lessor and sublessor of such tangible  
229 property shall similarly and automatically be exempt and subject  
230 to the fee-in-lieu granted in accordance herewith without any  
231 action being required to be taken by such owner, lessor or  
232 sublessor.

233 (2) A county board of supervisors may enter into a  
234 fee-in-lieu agreement on behalf of the county and any county  
235 school district, and a municipality may enter into such a  
236 fee-in-lieu agreement on behalf of the municipality and any  
237 municipal school district located in the municipality; however, if  
238 the project is located outside the limits of a municipality but  
239 within the boundaries of the municipal school district, then the  
240 county board of supervisors may enter into such a fee-in-lieu  
241 agreement on behalf of the school district granting a fee-in-lieu  
242 of ad valorem taxes for school district purposes.

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244 evidenced by a written agreement negotiated by the enterprise and  
245 the county board of supervisors and/or municipal authority, as the  
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251 valorem taxes for school district purposes, and except as  
252 otherwise provided, the sum allowed shall be apportioned between  
253 the county or municipality, as appropriate, and the school  
254 districts in such amounts as may be determined by the county board  
255 of supervisors or municipal governing authority, as the case may  
256 be, however, except as otherwise provided in this section, from  
257 the sum allowed the apportionment to school districts shall not be  
258 less than the school districts' pro rata share based upon the  
259 proportion that the millage imposed for the school districts by  
260 the appropriate levying authority bears to the millage imposed by  
261 such levying authority for all other county or municipal purposes.  
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263 become a binding obligation of the parties to the agreement, be  
264 effective upon its execution by the parties and approval by the  
265 Mississippi Development Authority and, except as otherwise  
266 provided in Section 17-25-23 or Section 57-75-33, or any other  
267 provision of law, continue in effect for a period not to exceed  
268 thirty (30) years commencing on the date that the fee-in-lieu  
269 granted thereunder begins in accordance with the agreement;  
270 however, no particular parcel of land, real property improvement  
271 or item of personal property shall be subject to a fee-in-lieu for



272 a duration of more than ten (10) years. Any such agreement shall  
273 be binding, according to its terms, on future boards of  
274 supervisors of the county and/or governing authorities of a  
275 municipality, as the case may be, for the duration of the  
276 agreement.

277 (5) The fee-in-lieu may be a stated fraction or percentage  
278 of the ad valorem taxes otherwise payable or a stated dollar  
279 amount. If the fee is a fraction or percentage of the ad valorem  
280 tax levy, it shall be annually computed on all ad valorem taxes  
281 otherwise payable, including school taxes, as the same may vary  
282 from year to year based upon changes in the millage rate or  
283 assessed value and shall not be less than one-third (1/3) of that  
284 amount. If the fee is a stated dollar amount, said amount shall  
285 be the higher of the sum provided for fixed payment or one-third  
286 (1/3) of the total of all ad valorem taxes otherwise payable as  
287 annually determined during each year of the fee-in-lieu.

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

295 (7) For a project as defined in Section 57-75-5(f)(xxi) and  
296 located in a county that is a member of a regional economic



297 development alliance created under Section 57-64-1 et seq., the  
298 members of the regional economic development alliance may divide  
299 the sum allowed as a fee-in-lieu in a manner as determined by the  
300 alliance agreement, and the boards of supervisors of the member  
301 counties may then apportion the sum allowed between school  
302 district purposes and all other county purposes.

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304 the board of supervisors of the county in which the project is  
305 located may negotiate with the school district in which the  
306 project is located and apportion to the school district an amount  
307 of the fee-in-lieu that is agreed upon in the negotiations  
308 different than the amount provided for in subsection (3) of this  
309 section.

310 (9) For a project as defined in Section 57-75-5(f) (xxviii),  
311 the annual amount of the fee-in-lieu apportioned to the county  
312 shall not be less than the amount necessary to pay the annual debt  
313 service on bonds issued by the county pursuant to Section  
314 57-75-37(3) (c) .

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

318 **SECTION 2.** This act shall take effect and be in force from  
319 and after July 1, 2022.

