

By: Representatives Reynolds, Stamps, Boyd
(19th)

To: Ways and Means

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 871

1 AN ACT TO AMEND SECTION 27-31-46.1, MISSISSIPPI CODE OF 1972,
2 TO EXTEND THE PERIOD IN WHICH CERTAIN RENEWABLE ENERGY PROJECTS
3 MAY BEGIN CONSTRUCTION IN ORDER TO BE ELIGIBLE FOR A PARTIAL AD
4 VALOREM TAX EXEMPTION; TO EXTEND THE TIME PERIOD WITHIN WHICH
5 COUNTY BOARDS OF SUPERVISORS AND MUNICIPAL GOVERNING AUTHORITIES
6 MAY AUTHORIZE A PARTIAL AD VALOREM TAX EXEMPTION FOR CERTAIN
7 RENEWABLE ENERGY PROJECTS; TO AMEND SECTION 27-31-104, MISSISSIPPI
8 CODE OF 1972, WHICH AUTHORIZES COUNTY BOARDS OF SUPERVISORS AND
9 MUNICIPAL GOVERNING AUTHORITIES TO ENTER INTO AGREEMENTS WITH
10 CERTAIN ENTERPRISES GRANTING A FEE-IN-LIEU OF AD VALOREM TAXES, TO
11 REVISE THE ENTERPRISES WITH WHICH COUNTY BOARDS OF SUPERVISORS AND
12 MUNICIPAL GOVERNING AUTHORITIES ARE AUTHORIZED TO ENTER INTO SUCH
13 AGREEMENTS; TO EXTEND THE TIME PERIOD WITHIN WHICH COUNTY BOARDS
14 OF SUPERVISORS AND MUNICIPAL GOVERNING AUTHORITIES MAY ENTER INTO
15 SUCH AGREEMENTS WITH CERTAIN RENEWABLE ENERGY PROJECTS; AND FOR
16 RELATED PURPOSES.

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

18 **SECTION 1.** Section 27-31-46.1, Mississippi Code of 1972, is
19 amended as follows:

20 27-31-46.1. A project that is eligible for an ad valorem tax
21 exemption under Section 27-31-46, and for which initial
22 construction begins on or after July 1, 2022, but not later than
23 December 31, * * * 2027, may be allowed an exemption from ad
24 valorem taxation as provided in this section. For such a project,
25 one-half (1/2) of the true value of property of the project that



26 is subject to a fee-in-lieu of ad valorem taxes pursuant to an
27 agreement under Section 27-31-104 may be exempted by a county
28 board of supervisors and/or municipal governing authorities from
29 ad valorem taxation for a period of ten (10) years from and after
30 the date of the expiration of such fee-in-lieu of ad valorem
31 taxes. Any exemption from ad valorem taxation allowed under this
32 section must be authorized by a county board of supervisors and/or
33 municipal governing authorities before July 1, * * * 2026.

34 **SECTION 2.** Section 27-31-104, Mississippi Code of 1972, is
35 amended as follows:

36 **[Through June 30, 2025, this section shall read as follows:]**

37 27-31-104. (1) (a) County boards of supervisors and
38 municipal authorities are each hereby authorized and empowered to
39 enter into an agreement with an enterprise granting, and pursuant
40 to such agreement grant a fee-in-lieu of ad valorem taxes,
41 including ad valorem taxes levied for school purposes, for the
42 following:

43 (i) Projects totaling over Sixty Million Dollars
44 (\$60,000,000.00) by any new enterprises enumerated in Section
45 27-31-101;

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



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

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

59 (v) A private company (as such term is defined in
60 Section 57-61-5) or entity as defined in Section 77-3-3(d)(i)
61 having a minimum capital investment of One Hundred Million Dollars
62 (\$100,000,000.00) from any source or combination of sources,
63 provided that a majority of the capital investment is from private
64 sources, when such project is located within a geographic area for
65 which a Presidential Disaster Declaration was issued on or after
66 January 1, 2014.

67 County boards of supervisors and municipal authorities may
68 not enter into an agreement with an enterprise that is a medical
69 cannabis establishment, as defined in the Mississippi Medical
70 Cannabis Act, granting, and pursuant to such agreement grant a
71 fee-in-lieu of ad valorem taxes.

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



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

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



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

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

110 (4) The minimum sum allowable as a fee-in-lieu shall not be
111 less than one-third (1/3), or one-tenth (1/10) if the project is
112 also a project eligible for an ad valorem tax exemption under
113 Section 27-31-46 and a fee-in-lieu agreement is entered into
114 before July 1, * * * 2026, of the ad valorem levy, including ad
115 valorem taxes for school district purposes, and except as
116 otherwise provided, the sum allowed shall be apportioned between
117 the county or municipality, as appropriate, and the school
118 districts in such amounts as may be determined by the county board
119 of supervisors or municipal governing authority, as the case may
120 be, however, except as otherwise provided in this section, from
121 the sum allowed the apportionment to school districts shall not be
122 less than the school districts' pro rata share based upon the
123 proportion that the millage imposed for the school districts by



124 the appropriate levying authority bears to the millage imposed by
125 such levying authority for all other county or municipal purposes.
126 Any fee-in-lieu agreement entered into under this section shall
127 become a binding obligation of the parties to the agreement, be
128 effective upon its execution by the parties and approval by the
129 Mississippi Development Authority and, except as otherwise
130 provided in Section 17-25-23 or Section 57-75-33, or any other
131 provision of law, continue in effect for a period not to exceed
132 thirty (30) years commencing on the date that the fee-in-lieu
133 granted thereunder begins in accordance with the agreement;
134 however, no particular parcel of land, real property improvement
135 or item of personal property shall be subject to a fee-in-lieu for
136 a duration of more than ten (10) years. Any such agreement shall
137 be binding, according to its terms, on future boards of
138 supervisors of the county and/or governing authorities of a
139 municipality, as the case may be, for the duration of the
140 agreement.

141 (5) The fee-in-lieu may be a stated fraction or percentage
142 of the ad valorem taxes otherwise payable or a stated dollar
143 amount. If the fee is a fraction or percentage of the ad valorem
144 tax levy, it shall be annually computed on all ad valorem taxes
145 otherwise payable, including school taxes, as the same may vary
146 from year to year based upon changes in the millage rate or
147 assessed value and shall not be less than one-third (1/3) of that
148 amount or one-tenth (1/10) of that amount if the project is also a



149 project eligible for an ad valorem tax exemption under Section
150 27-31-46 and a fee-in-lieu agreement is entered into before July
151 1, * * * 2026. If the fee is a stated dollar amount, said amount
152 shall be the higher of the sum provided for fixed payment or (a)
153 one-third (1/3) of the total of all ad valorem taxes otherwise
154 payable as annually determined during each year of the fee-in-lieu
155 or (b) if the project is also a project eligible for an ad valorem
156 tax exemption under Section 27-31-46 and a fee-in-lieu agreement
157 is entered into before July 1, * * * 2026, one-tenth (1/10) of the
158 total of all ad valorem taxes otherwise payable as annually
159 determined during each year of the fee-in-lieu.

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

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



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

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

182 (9) For a project as defined in Section 57-75-5(f) (xxviii),
183 the annual amount of the fee-in-lieu apportioned to the county
184 shall not be less than the amount necessary to pay the debt
185 service on bonds issued by the county pursuant to Section
186 57-75-37(3) (c) .

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

190 **[From and after July 1, 2025, this section shall read as**
191 **follows:]**

192 27-31-104. (1) (a) County boards of supervisors and
193 municipal authorities are each hereby authorized and empowered to
194 enter into an agreement with an enterprise granting, and pursuant
195 to such agreement grant a fee-in-lieu of ad valorem taxes,
196 including ad valorem taxes levied for school purposes, for the
197 following:



198 (i) Projects totaling over Sixty Million Dollars
199 (\$60,000,000.00) by any new enterprises enumerated in Section
200 27-31-101;

201 (ii) Projects by a private company (as such term
202 is defined in Section 57-61-5, Mississippi Code of 1972) having a
203 minimum capital investment of Sixty Million Dollars
204 (\$60,000,000.00);

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

212 (iv) A private company (as such term is defined in
213 Section 57-61-5) or entity as defined in Section 77-3-3(d)(i)
214 having a minimum capital investment of One Hundred Million Dollars
215 (\$100,000,000.00) from any source or combination of sources,
216 provided that a majority of the capital investment is from private
217 sources, when such project is located within a geographic area for
218 which a Presidential Disaster Declaration was issued on or after
219 January 1, 2014.

220 County boards of supervisors and municipal authorities may
221 not enter into an agreement with an enterprise that is a medical
222 cannabis establishment, as defined in the Mississippi Medical



223 Cannabis Act, granting, and pursuant to such agreement grant a
224 fee-in-lieu of ad valorem taxes.

225 (b) A fee-in-lieu of ad valorem taxes granted in
226 accordance with this section may include any or all tangible
227 property, real or personal, including any leasehold interests
228 therein but excluding automobiles and trucks operating on and over
229 the highways of the State of Mississippi, used in connection with,
230 or necessary to, the operation of any enterprise, private company
231 or business described in paragraph (a) of this subsection (1), as
232 applicable, whether or not such property is owned, leased,
233 subleased, licensed or otherwise obtained by such enterprise,
234 private company or business, as applicable, irrespective of the
235 taxpayer to which any such leased property is assessed for ad
236 valorem tax purposes. If a fee-in-lieu of ad valorem taxes is
237 granted pursuant to this section with respect to any leasehold
238 interest under a lease, sublease or license of tangible property
239 used in connection with, or necessary to, the operation of an
240 enterprise, private company or business described in paragraph (a)
241 of this subsection (1), as applicable, the corresponding ownership
242 interest of the owner, lessor and sublessor of such tangible
243 property shall similarly and automatically be exempt and subject
244 to the fee-in-lieu granted in accordance herewith without any
245 action being required to be taken by such owner, lessor or
246 sublessor.



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

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

263 (4) The minimum sum allowable as a fee-in-lieu shall not be
264 less than one-third (1/3), or one-tenth (1/10) if the project is
265 also a project eligible for an ad valorem tax exemption under
266 Section 27-31-46 and a fee-in-lieu agreement is entered into
267 before July 1, * * * 2026, of the ad valorem levy, including ad
268 valorem taxes for school district purposes, and except as
269 otherwise provided, the sum allowed shall be apportioned between
270 the county or municipality, as appropriate, and the school
271 districts in such amounts as may be determined by the county board



272 of supervisors or municipal governing authority, as the case may
273 be, however, except as otherwise provided in this section, from
274 the sum allowed the apportionment to school districts shall not be
275 less than the school districts' pro rata share based upon the
276 proportion that the millage imposed for the school districts by
277 the appropriate levying authority bears to the millage imposed by
278 such levying authority for all other county or municipal purposes.
279 Any fee-in-lieu agreement entered into under this section shall
280 become a binding obligation of the parties to the agreement, be
281 effective upon its execution by the parties and approval by the
282 Mississippi Development Authority and, except as otherwise
283 provided in Section 17-25-23 or Section 57-75-33, or any other
284 provision of law, continue in effect for a period not to exceed
285 thirty (30) years commencing on the date that the fee-in-lieu
286 granted thereunder begins in accordance with the agreement;
287 however, no particular parcel of land, real property improvement
288 or item of personal property shall be subject to a fee-in-lieu for
289 a duration of more than ten (10) years. Any such agreement shall
290 be binding, according to its terms, on future boards of
291 supervisors of the county and/or governing authorities of a
292 municipality, as the case may be, for the duration of the
293 agreement.

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



297 tax levy, it shall be annually computed on all ad valorem taxes
298 otherwise payable, including school taxes, as the same may vary
299 from year to year based upon changes in the millage rate or
300 assessed value and shall not be less than one-third (1/3) of that
301 amount or one-tenth (1/10) of that amount if the project is also a
302 project eligible for an ad valorem tax exemption under Section
303 27-31-46 and a fee-in-lieu agreement is entered into before July
304 1, * * * 2026. If the fee is a stated dollar amount, said amount
305 shall be the higher of the sum provided for fixed payment or (a)
306 one-third (1/3) of the total of all ad valorem taxes otherwise
307 payable as annually determined during each year of the fee-in-lieu
308 or (b) if the project is also a project eligible for an ad valorem
309 tax exemption under Section 27-31-46 and a fee-in-lieu agreement
310 is entered into before July 1, * * * 2026, one-tenth (1/10) of the
311 total of all ad valorem taxes otherwise payable as annually
312 determined during each year of the fee-in-lieu.

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

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



322 development alliance created under Section 57-64-1 et seq., the
323 members of the regional economic development alliance may divide
324 the sum allowed as a fee-in-lieu in a manner as determined by the
325 alliance agreement, and the boards of supervisors of the member
326 counties may then apportion the sum allowed between school
327 district purposes and all other county purposes.

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

335 (9) For a project as defined in Section 57-75-5(f) (xxviii),
336 the annual amount of the fee-in-lieu apportioned to the county
337 shall not be less than the amount necessary to pay the annual debt
338 service on bonds issued by the county pursuant to Section
339 57-75-37(3) (c) .

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

343 **SECTION 3.** This act shall take effect and be in force from
344 and after July 1, 2023.

