

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

To: Ways and Means

HOUSE BILL NO. 871

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

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

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

15 27-31-46.1. A project that is eligible for an ad valorem tax
16 exemption under Section 27-31-46, and for which initial
17 construction begins on or after July 1, 2022, but not later than
18 December 31, 2024, may be allowed an exemption from ad valorem
19 taxation as provided in this section. For such a project,
20 one-half (1/2) of the true value of property of the project that
21 is subject to a fee-in-lieu of ad valorem taxes pursuant to an
22 agreement under Section 27-31-104 may be exempted by a county



23 board of supervisors and/or municipal governing authorities from
24 ad valorem taxation for a period of ten (10) years from and after
25 the date of the expiration of such fee-in-lieu of ad valorem
26 taxes. Any exemption from ad valorem taxation allowed under this
27 section must be authorized by a county board of supervisors and/or
28 municipal governing authorities before July 1, * * * 2028.

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

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

32 27-31-104. (1) (a) County boards of supervisors and
33 municipal authorities are each hereby authorized and empowered to
34 enter into an agreement with an enterprise granting, and pursuant
35 to such agreement grant a fee-in-lieu of ad valorem taxes,
36 including ad valorem taxes levied for school purposes, for the
37 following:

38 (i) Projects totaling over Sixty Million Dollars
39 (\$60,000,000.00) by any new enterprises enumerated in Section
40 27-31-101;

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

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



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

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

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

66 (b) A fee-in-lieu of ad valorem taxes granted in
67 accordance with this section may include any or all tangible
68 property, real or personal, including any leasehold interests
69 therein but excluding automobiles and trucks operating on and over
70 the highways of the State of Mississippi, used in connection with,
71 or necessary to, the operation of any enterprise, private company



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

88 (2) A county board of supervisors may enter into a
89 fee-in-lieu agreement on behalf of the county and any county
90 school district, and a municipality may enter into such a
91 fee-in-lieu agreement on behalf of the municipality and any
92 municipal school district located in the municipality; however, if
93 the project is located outside the limits of a municipality but
94 within the boundaries of the municipal school district, then the
95 county board of supervisors may enter into such a fee-in-lieu



96 agreement on behalf of the school district granting a fee-in-lieu
97 of ad valorem taxes for school district purposes.

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

104 (4) The minimum sum allowable as a fee-in-lieu shall not be
105 less than one-third (1/3), or one-tenth (1/10) if the project is
106 also a project eligible for an ad valorem tax exemption under
107 Section 27-31-46 and a fee-in-lieu agreement is entered into
108 before July 1, * * * 2028, of the ad valorem levy, including ad
109 valorem taxes for school district purposes, and except as
110 otherwise provided, the sum allowed shall be apportioned between
111 the county or municipality, as appropriate, and the school
112 districts in such amounts as may be determined by the county board
113 of supervisors or municipal governing authority, as the case may
114 be, however, except as otherwise provided in this section, from
115 the sum allowed the apportionment to school districts shall not be
116 less than the school districts' pro rata share based upon the
117 proportion that the millage imposed for the school districts by
118 the appropriate levying authority bears to the millage imposed by
119 such levying authority for all other county or municipal purposes.
120 Any fee-in-lieu agreement entered into under this section shall



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

135 (5) The fee-in-lieu may be a stated fraction or percentage
136 of the ad valorem taxes otherwise payable or a stated dollar
137 amount. If the fee is a fraction or percentage of the ad valorem
138 tax levy, it shall be annually computed on all ad valorem taxes
139 otherwise payable, including school taxes, as the same may vary
140 from year to year based upon changes in the millage rate or
141 assessed value and shall not be less than one-third (1/3) of that
142 amount or one-tenth (1/10) of that amount if the project is also a
143 project eligible for an ad valorem tax exemption under Section
144 27-31-46 and a fee-in-lieu agreement is entered into before July
145 1, * * * 2028. If the fee is a stated dollar amount, said amount



146 shall be the higher of the sum provided for fixed payment or (a)
147 one-third (1/3) of the total of all ad valorem taxes otherwise
148 payable as annually determined during each year of the fee-in-lieu
149 or (b) if the project is also a project eligible for an ad valorem
150 tax exemption under Section 27-31-46 and a fee-in-lieu agreement
151 is entered into before July 1, * * * 2028, one-tenth (1/10) of the
152 total of all ad valorem taxes otherwise payable as annually
153 determined during each year of the fee-in-lieu.

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

161 (7) For a project as defined in Section 57-75-5(f)(xxi) and
162 located in a county that is a member of a regional economic
163 development alliance created under Section 57-64-1 et seq., the
164 members of the regional economic development alliance may divide
165 the sum allowed as a fee-in-lieu in a manner as determined by the
166 alliance agreement, and the boards of supervisors of the member
167 counties may then apportion the sum allowed between school
168 district purposes and all other county purposes.

169 (8) For a project as defined in Section 57-75-5(f)(xxvi),
170 the board of supervisors of the county in which the project is



171 located may negotiate with the school district in which the
172 project is located and apportion to the school district an amount
173 of the fee-in-lieu that is agreed upon in the negotiations
174 different than the amount provided for in subsection (3) of this
175 section.

176 (9) For a project as defined in Section 57-75-5(f) (xxviii),
177 the annual amount of the fee-in-lieu apportioned to the county
178 shall not be less than the amount necessary to pay the debt
179 service on bonds issued by the county pursuant to Section
180 57-75-37(3) (c) .

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

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

186 27-31-104. (1) (a) County boards of supervisors and
187 municipal authorities are each hereby authorized and empowered to
188 enter into an agreement with an enterprise granting, and pursuant
189 to such agreement grant a fee-in-lieu of ad valorem taxes,
190 including ad valorem taxes levied for school purposes, for the
191 following:

192 (i) Projects totaling over Sixty Million Dollars
193 (\$60,000,000.00) by any new enterprises enumerated in Section
194 27-31-101;



195 (ii) Projects by a private company (as such term
196 is defined in Section 57-61-5, Mississippi Code of 1972) having a
197 minimum capital investment of Sixty Million Dollars
198 (\$60,000,000.00);

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

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

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

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



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

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



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

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

256 (4) The minimum sum allowable as a fee-in-lieu shall not be
257 less than one-third (1/3), or one-tenth (1/10) if the project is
258 also a project eligible for an ad valorem tax exemption under
259 Section 27-31-46 and a fee-in-lieu agreement is entered into
260 before July 1, * * * 2028, of the ad valorem levy, including ad
261 valorem taxes for school district purposes, and except as
262 otherwise provided, the sum allowed shall be apportioned between
263 the county or municipality, as appropriate, and the school
264 districts in such amounts as may be determined by the county board
265 of supervisors or municipal governing authority, as the case may
266 be, however, except as otherwise provided in this section, from
267 the sum allowed the apportionment to school districts shall not be
268 less than the school districts' pro rata share based upon the
269 proportion that the millage imposed for the school districts by



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

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



295 project eligible for an ad valorem tax exemption under Section
296 27-31-46 and a fee-in-lieu agreement is entered into before July
297 1, * * * 2028. If the fee is a stated dollar amount, said amount
298 shall be the higher of the sum provided for fixed payment or (a)
299 one-third (1/3) of the total of all ad valorem taxes otherwise
300 payable as annually determined during each year of the fee-in-lieu
301 or (b) if the project is also a project eligible for an ad valorem
302 tax exemption under Section 27-31-46 and a fee-in-lieu agreement
303 is entered into before July 1, * * * 2028, one-tenth (1/10) of the
304 total of all ad valorem taxes otherwise payable as annually
305 determined during each year of the fee-in-lieu.

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

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



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

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

328 (9) For a project as defined in Section 57-75-5(f) (xxviii),
329 the annual amount of the fee-in-lieu apportioned to the county
330 shall not be less than the amount necessary to pay the annual debt
331 service on bonds issued by the county pursuant to Section
332 57-75-37(3) (c) .

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

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

