

By: Representatives Harness, Johnson, Hines, Denton, Bailey, Banks, Bell (65th) To: Ways and Means

HOUSE BILL NO. 625

1 AN ACT TO AMEND SECTION 19-9-151, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE DISTRIBUTION OF PAYMENTS MADE BY A NUCLEAR
3 GENERATING PLANT IN-LIEU OF AD VALOREM TAXES; TO BRING FORWARD
4 SECTIONS 19-9-153, 19-9-155 AND 19-9-157, MISSISSIPPI CODE OF
5 1972, WHICH RELATE TO IN-LIEU PAYMENTS TO COUNTIES IN WHICH
6 NUCLEAR GENERATING PLANTS ARE LOCATED, FOR THE PURPOSES OF
7 POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 27-35-309, WHICH
8 RELATES TO THE METHODS OF ASSESSING CERTAIN PUBLIC SERVICE
9 CORPORATION PROPERTY FOR THE PURPOSES OF AD VALOREM TAXATION AND
10 THE TAXATION OF NUCLEAR GENERATING PLANTS, FOR THE PURPOSES OF
11 POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

13 SECTION 1. Section 19-9-151, Mississippi Code of 1972, is
14 amended as follows:

15 19-9-151. The in-lieu payments made to the * * * Department
16 of Revenue pursuant to Section 27-35-309(3)(b), excluding payments
17 made in excess of Sixteen Million Dollars (\$16,000,000.00) which
18 are required to be paid into the General Fund of the state, shall
19 be distributed by the * * * Department of Revenue as follows:

20 (a) For fiscal year 1987, fifty percent (50%) of such
21 payment shall be paid to the situs county wherein such nuclear
22 generating plant is located;



23 (b) For fiscal year 1988, forty-five percent (45%) of
24 such payment shall be paid to the situs county wherein such
25 nuclear generating plant is located;

26 (c) For fiscal year 1989, forty percent (40%) of such
27 payment shall be paid to the situs county wherein such nuclear
28 generating plant is located;

29 (d) For fiscal year 1990, thirty-five (35%) of such
30 payment shall be paid to the situs county wherein such nuclear
31 generating plant is located;

32 (e) For fiscal year 1991 and thereafter through fiscal
33 year 2024, thirty percent (30%) of such payment shall be paid to
34 the situs county wherein such nuclear generating plant is located;

35 (f) For fiscal year 2025, and each fiscal year
36 thereafter, Fifteen Million Dollars (\$15,000,000.00) of such
37 payment shall be paid to the situs county wherein such nuclear
38 generating plant is located.

39 **SECTION 2.** Section 19-9-153, Mississippi Code of 1972, is
40 brought forward as follows:

41 19-9-153. Of the funds received pursuant to Section 19-9-151
42 by a situs county wherein such nuclear generating plant is
43 located, the board of supervisors of such situs county shall
44 distribute ten percent (10%) of each payment, upon receipt, to the
45 most populous incorporated municipality within the county;
46 however, if such plant is located within a municipality, such
47 payments which would otherwise be made to the situs county



48 pursuant to Section 19-9-151 shall be divided equally between the
49 situs county and situs municipality.

50 **SECTION 3.** Section 19-9-155, Mississippi Code of 1972, is
51 brought forward as follows:

52 19-9-155. Of the funds retained by the situs county after
53 the payment made pursuant to Section 19-9-153, not more than Five
54 Million Five Hundred Thousand Dollars (\$5,500,000.00) per year may
55 be expended by the board of supervisors of the county for any
56 purposes for which a county is authorized by law to levy an ad
57 valorem tax, and any funds in excess of such amount shall be
58 expended in accordance with Section 19-9-157.

59 **SECTION 4.** Section 19-9-157, Mississippi Code of 1972, is
60 brought forward as follows:

61 19-9-157. The board of supervisors of the situs county, upon
62 receipt of the payments pursuant to Section 19-9-151 less the
63 payment made according to Section 19-9-153, shall pay all such
64 funds in excess of Five Million Five Hundred Thousand Dollars
65 (\$5,500,000.00) to the governing authorities of the public school
66 districts in such county in the proportion that the average daily
67 attendance for the preceding scholastic year of each school
68 district bears to the total average daily attendance of the county
69 for the preceding scholastic year. Such funds may be expended
70 only for the purposes of capital improvements to school facilities
71 and only after plans therefor have been submitted to and approved
72 by the Educational Finance Commission or its successor. The



73 governing authorities of such school districts may borrow money in
74 anticipation of receipt of payments pursuant to this section and
75 the levying authority for the school district may issue negotiable
76 notes therefor, for the purposes set forth herein. Such loan
77 shall be repaid from the payments received under this section by
78 the governing authorities of the public school district. However,
79 no public school districts within the situs county shall be
80 entitled to any payments after January 1, 1990.

81 **SECTION 5.** Section 27-35-309, Mississippi Code of 1972, is
82 brought forward as follows:

83 27-35-309. (1) The Department of Revenue shall, if
84 practicable, on or before the first Monday of June of each year,
85 make out for each person, firm, company or corporation listed in
86 Section 27-35-303, Mississippi Code of 1972, an assessment of the
87 company's property, both real and personal, tangible and
88 intangible. The Department of Revenue shall apportion the
89 assessment of value of each company's property according to the
90 provisions of this article, except as provided in subsection (3)
91 of this section, as follows:

92 (a) When the property of such public service company is
93 located in more than one (1) county in this state, the Department
94 of Revenue shall direct the company to apportion the assessed
95 value between the counties and municipalities and all other taxing
96 districts therein, in the proportion which the property located
97 therein bears to the entire value of the property of such company



98 as valued by the department, so that to each county, municipality
99 and taxing district therein, there shall be apportioned such part
100 of the entire valuation as will fairly equalize the relative value
101 of the property therein located to the whole value thereof.

102 (b) When the property of such public utility required
103 to be assessed by the provisions of this article is located in
104 more than one (1) state, the assessed value thereof shall be
105 apportioned by the Department of Revenue in such manner as will
106 fairly and equitably determine the principal sum for the value
107 thereof in this state, and after ascertaining such value it shall
108 be apportioned by them as herein provided.

109 The assessment roll shall contain all the property of any
110 such public service company, railroad, person, firm or corporation
111 and the value thereof, and so made that each county, municipality,
112 and taxing district shall receive its just share of taxes
113 proportionately to the amount of property therein situated.

114 (2) (a) The assessment when made shall remain open for
115 twenty (20) days in the Office of the Department of Revenue, and
116 be for such time subject to the objections thereto which may be
117 filed with the Executive Director of the Board of Tax Appeals; but
118 real estate belonging to railroads and which forms no part of the
119 road, and is wholly disconnected from its railroad business, shall
120 not be assessed by the Department of Revenue, but shall be
121 assessed as other real estate is assessed by the tax assessor of
122 the county where situated.



123 (b) The apportionment of the assessed value as required
124 by this section shall be filed with the Department of Revenue by
125 such public service company on or before the last day of the
126 objection period established in paragraph (a) of this subsection
127 (2). If such company shall fail, refuse or neglect to render the
128 apportionment of assessed value as required by this section, such
129 company shall be subject to the penalties provided for in Section
130 27-35-305. The filing of an objection by such public service
131 company shall not preclude such company from filing the property
132 apportionment as required by this section.

133 (3) Any nuclear generating plant which is located in the
134 state, which is owned or operated by a public utility rendering
135 electric service within the state and not exempt from ad valorem
136 taxation under any other statute and which is not owned or
137 operated by an instrumentality of the federal government shall be
138 exempt from county, municipal and district ad valorem taxes. In
139 lieu of the payment of county, municipal and district ad valorem
140 taxes, such public utility shall pay to the Department of Revenue
141 a sum based on the assessed value of such nuclear generating plant
142 in an amount to be determined and distributed as follows:

143 (a) The Department of Revenue shall annually assign an
144 assessed value to any nuclear generating plant described in this
145 subsection in the same manner as for ad valorem tax purposes by
146 using accepted industry methods for appraising and assessing
147 public utility property. The assessed value assigned shall be



148 used for the purpose of determining the in-lieu tax due under this
149 section and shall not be included on the ad valorem tax rolls of
150 the situs taxing authority nor be subject to ad valorem taxation
151 by the situs taxing authority nor shall the assessed value
152 assigned be used in determining the debt limit of the situs taxing
153 authority. However, the assessed value so assigned may be used by
154 the situs taxing authority for the purpose of determining salaries
155 of its public officials.

156 (b) On or before February 1, 1987, for the 1986 taxable
157 year and on or before February 1 of each year through the 1989
158 taxable year, such utility shall pay to the Department of Revenue
159 a sum equal to two percent (2%) of the assessed value as
160 ascertained by the Department of Revenue, but such payment shall
161 not be less than Sixteen Million Dollars (\$16,000,000.00) for any
162 of the four (4) taxable years; all such payments in excess of
163 Sixteen Million Dollars (\$16,000,000.00) for these four (4)
164 taxable years shall be paid into the General Fund of the state.
165 On or before February 1, 1991, for the 1990 taxable year and on or
166 before February 1 of each year thereafter, such utility shall pay
167 to the Department of Revenue a sum equal to two percent (2%) of
168 the assessed value as ascertained by the Department of Revenue,
169 but such payment shall not be less than Twenty Million Dollars
170 (\$20,000,000.00) for any taxable year for as long as such nuclear
171 power plant is licensed to operate and is not being permanently
172 decommissioned; all such payments in excess of Sixteen Million



173 Dollars (\$16,000,000.00) for taxable years 1990 and thereafter
174 shall be paid as follows:

175 (i) An amount of Three Million Forty Thousand
176 Dollars (\$3,040,000.00) annually, beginning with fiscal year 1991,
177 shall be transferred by the Department of Revenue to Claiborne
178 County. Such payments may be expended by the Board of Supervisors
179 of Claiborne County for any purpose for which a county is
180 authorized by law to levy an ad valorem tax and shall not be
181 included or considered as proceeds of ad valorem taxes for the
182 purposes of the growth limitation on ad valorem taxes under
183 Sections 27-39-305 and 27-39-321. However, should the Board of
184 Supervisors of Claiborne County withdraw its support of the Grand
185 Gulf Nuclear Station off-site emergency plan or otherwise fail to
186 satisfy its off-site emergency plan commitments as determined by
187 the Mississippi Emergency Management Agency and the Federal
188 Emergency Management Agency, Five Hundred Thousand Dollars
189 (\$500,000.00) annually of the funds designated for Claiborne
190 County as described by this subsection (i) shall be deposited in
191 the Grand Gulf Disaster Assistance Fund as provided in Section
192 33-15-51.

193 (ii) An amount of One Hundred Sixty Thousand
194 Dollars (\$160,000.00) annually, beginning with fiscal year 1991,
195 shall be transferred by the Department of Revenue to the City of
196 Port Gibson, Mississippi. Such payments may be expended by the
197 Board of Aldermen of the City of Port Gibson for any purpose for



198 which a municipality is authorized by law to levy an ad valorem
199 tax and shall not be included or considered as proceeds of ad
200 valorem taxes for the purposes of the growth limitation on ad
201 valorem taxes under Sections 27-39-305 and 27-39-321. However,
202 should the Board of Aldermen of the City of Port Gibson withdraw
203 its support of the Grand Gulf Nuclear Station off-site emergency
204 plan or otherwise fail to satisfy its off-site emergency plan
205 commitment, as determined by the Mississippi Emergency Management
206 Agency and the Federal Emergency Management Agency, Fifty Thousand
207 Dollars (\$50,000.00) annually of the funds designated for the City
208 of Port Gibson as described by this subsection (ii) shall be
209 deposited in the Grand Gulf Disaster Assistance Fund as provided
210 in Section 33-15-51.

211 (iii) The remaining balance of the payments in
212 excess of Sixteen Million Dollars (\$16,000,000.00) annually, less
213 amounts transferred under (i) and (ii) of this subsection,
214 beginning with fiscal year 1991, shall be allocated in accordance
215 with subsection (3) (f) of this section.

216 (c) Pursuant to certification by the Attorney General
217 to the State Treasurer and the Department of Revenue that the suit
218 against the State of Mississippi pending on the effective date of
219 House Bill 8, First Extraordinary Session of 1990, [Laws, 1990 Ex
220 Session, Ch. 12, eff June 26, 1990], in the Chancery Court for the
221 First Judicial District of Hinds County, Mississippi, styled
222 Albert Butler et al v. the Mississippi State Tax Commission et al,



223 has been voluntarily dismissed with prejudice as to all plaintiffs
224 at the request of the complainants and that no attorney's fees or
225 court costs have been assessed against the state and each of the
226 parties, including Claiborne County and each municipality and
227 school district located in the county, have signed and delivered
228 to the Attorney General a full and complete release in favor of
229 the State of Mississippi and its elected officials of all claims
230 that have been asserted or may be asserted in the suit pending on
231 the effective date of House Bill 8, First Extraordinary Session of
232 1990, [Laws, 1990 Ex Session, Ch. 12, eff June 26, 1990], in the
233 Chancery Court for the First Judicial District of Hinds County,
234 Mississippi, styled Albert Butler et al v. the Mississippi State
235 Tax Commission et al, and the deposit into the State General Fund
236 of in-lieu payments and interest thereon due the state under
237 subsection (3) (b) of this section but placed in escrow because of
238 the lawsuit described above, the state shall promptly transfer to
239 the Board of Supervisors of Claiborne County out of the State
240 General Fund an amount of Two Million Dollars (\$2,000,000.00)
241 which shall be a one-time distribution to Claiborne County from
242 the state. Such payment may be expended by the Board of
243 Supervisors of Claiborne County for any purposes for which a
244 county is authorized by law to levy an ad valorem tax and shall
245 not be included or considered as proceeds of ad valorem taxes for
246 the purposes of the growth limitation on ad valorem taxes for the
247 1991 fiscal year under Sections 27-39-321 and 27-39-305.



248 (d) After distribution of the one-time payment to
249 Claiborne County as set forth in subsection (3)(c) of this
250 section, the Department of Revenue upon certification that the
251 pending lawsuit as described in subsection (3)(c) of this section
252 has been voluntarily dismissed shall promptly deposit an amount of
253 Five Hundred Thousand Dollars (\$500,000.00) into the Grand Gulf
254 Disaster Assistance Trust Fund as provided for in Section
255 33-15-51, which shall be a one-time payment, to be utilized in
256 accordance with the provisions of such section.

257 (e) After distribution of the one-time payment to
258 Claiborne County as set forth in subsection (3)(c) of this section
259 and the payment to the Grand Gulf Disaster Assistance Trust Fund
260 as set forth in subsection (3)(d) of this section, the Department
261 of Revenue upon certification that the pending lawsuit as
262 described in subsection (3)(c) of this section has been
263 voluntarily dismissed shall promptly distribute ten percent (10%)
264 of the remainder of the prior payments remaining in escrow to the
265 General Fund of the state and the balance of the prior payments
266 remaining in escrow shall be distributed to the counties and
267 municipalities in this state wherein such public utility has
268 rendered electric service in the proportion that the amount of
269 electric energy consumed by the retail customers of such public
270 utility in each county, excluding municipalities therein, and in
271 each municipality, for the next preceding fiscal year bears to the
272 total amount of electric energy consumed by all retail customers



273 of such public utility in the State of Mississippi for the next
274 preceding fiscal year. The payments distributed to the counties
275 and municipalities under this paragraph (e) may be expended by
276 such counties and municipalities for any lawful purpose and shall
277 not be included or considered as proceeds of ad valorem taxes for
278 the purposes of the growth limitation on ad valorem taxes under
279 Sections 27-39-321 and 27-39-305.

280 (f) After distribution of the payments for fiscal year
281 1991 as set forth in Section 19-9-151 and distribution of the
282 payments as provided for in subsection (3) (b) of this section, the
283 Department of Revenue shall distribute ten percent (10%) of the
284 remainder of the payments to the General Fund of the state and the
285 balance to the counties and municipalities in this state wherein
286 such public utility renders electric service in the proportion
287 that the amount of electric energy consumed by the retail
288 customers of such public utility in each county, excluding
289 municipalities therein, and in each municipality for the next
290 preceding fiscal year bears to the total amount of electric energy
291 consumed by all retail customers of such public utility in the
292 State of Mississippi for the next preceding fiscal year.

293 (g) No county, including municipalities therein, shall
294 receive in excess of twenty percent (20%) of the funds distributed
295 under paragraph (f) of this subsection.

296 (h) The revenues received by counties and
297 municipalities under paragraph (f) of this subsection shall not be



298 included or considered as proceeds of ad valorem taxes for the
299 purposes of the growth limitation on ad valorem taxes under
300 Sections 27-39-305 and 27-39-321.

301 **SECTION 6.** This act shall take effect and be in force from
302 and after July 1, 2024.

