

By: Representatives Harness, Johnson, Bell
(65th)

To: Ways and Means

HOUSE BILL NO. 706

1 AN ACT TO AMEND SECTION 27-35-309, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT A PORTION OF THE PAYMENTS MADE BY A NUCLEAR
3 GENERATING PLANT IN-LIEU OF AD VALOREM TAXES SHALL BE PAID TO THE
4 CLAIBORNE COUNTY SCHOOL DISTRICT; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 27-35-309, Mississippi Code of 1972, is
7 amended as follows:

8 27-35-309. (1) The Department of Revenue shall, if
9 practicable, on or before the first Monday of June of each year,
10 make out for each person, firm, company or corporation listed in
11 Section 27-35-303, Mississippi Code of 1972, an assessment of the
12 company's property, both real and personal, tangible and
13 intangible. The Department of Revenue shall apportion the
14 assessment of value of each company's property according to the
15 provisions of this article, except as provided in subsection (3)
16 of this section, as follows:

17 (a) When the property of such public service company is
18 located in more than one (1) county in this state, the Department
19 of Revenue shall direct the company to apportion the assessed



20 value between the counties and municipalities and all other taxing
21 districts therein, in the proportion which the property located
22 therein bears to the entire value of the property of such company
23 as valued by the department, so that to each county, municipality
24 and taxing district therein, there shall be apportioned such part
25 of the entire valuation as will fairly equalize the relative value
26 of the property therein located to the whole value thereof.

27 (b) When the property of such public utility required
28 to be assessed by the provisions of this article is located in
29 more than one (1) state, the assessed value thereof shall be
30 apportioned by the Department of Revenue in such manner as will
31 fairly and equitably determine the principal sum for the value
32 thereof in this state, and after ascertaining such value it shall
33 be apportioned by them as herein provided.

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

39 (2) (a) The assessment when made shall remain open for
40 twenty (20) days in the Office of the Department of Revenue, and
41 be for such time subject to the objections thereto which may be
42 filed with the Executive Director of the Board of Tax Appeals; but
43 real estate belonging to railroads and which forms no part of the
44 road, and is wholly disconnected from its railroad business, shall



45 not be assessed by the Department of Revenue, but shall be
46 assessed as other real estate is assessed by the tax assessor of
47 the county where situated.

48 (b) The apportionment of the assessed value as required
49 by this section shall be filed with the Department of Revenue by
50 such public service company on or before the last day of the
51 objection period established in paragraph (a) of this subsection
52 (2). If such company shall fail, refuse or neglect to render the
53 apportionment of assessed value as required by this section, such
54 company shall be subject to the penalties provided for in Section
55 27-35-305. The filing of an objection by such public service
56 company shall not preclude such company from filing the property
57 apportionment as required by this section.

58 (3) Any nuclear generating plant which is located in the
59 state, which is owned or operated by a public utility rendering
60 electric service within the state and not exempt from ad valorem
61 taxation under any other statute and which is not owned or
62 operated by an instrumentality of the federal government shall be
63 exempt from county, municipal and district ad valorem taxes. In
64 lieu of the payment of county, municipal and district ad valorem
65 taxes, such public utility shall pay to the Department of Revenue
66 a sum based on the assessed value of such nuclear generating plant
67 in an amount to be determined and distributed as follows:

68 (a) The Department of Revenue shall annually assign an
69 assessed value to any nuclear generating plant described in this



70 subsection in the same manner as for ad valorem tax purposes by
71 using accepted industry methods for appraising and assessing
72 public utility property. The assessed value assigned shall be
73 used for the purpose of determining the in-lieu tax due under this
74 section and shall not be included on the ad valorem tax rolls of
75 the situs taxing authority nor be subject to ad valorem taxation
76 by the situs taxing authority nor shall the assessed value
77 assigned be used in determining the debt limit of the situs taxing
78 authority. However, the assessed value so assigned may be used by
79 the situs taxing authority for the purpose of determining salaries
80 of its public officials.

81 (b) On or before February 1, 1987, for the 1986 taxable
82 year and on or before February 1 of each year through the 1989
83 taxable year, such utility shall pay to the Department of Revenue
84 a sum equal to two percent (2%) of the assessed value as
85 ascertained by the Department of Revenue, but such payment shall
86 not be less than Sixteen Million Dollars (\$16,000,000.00) for any
87 of the four (4) taxable years; all such payments in excess of
88 Sixteen Million Dollars (\$16,000,000.00) for these four (4)
89 taxable years shall be paid into the General Fund of the state.
90 On or before February 1, 1991, for the 1990 taxable year and on or
91 before February 1 of each year thereafter, such utility shall pay
92 to the Department of Revenue a sum equal to two percent (2%) of
93 the assessed value as ascertained by the Department of Revenue,
94 but such payment shall not be less than Twenty Million Dollars



95 (\$20,000,000.00) for any taxable year for as long as such nuclear
96 power plant is licensed to operate and is not being permanently
97 decommissioned; all such payments in excess of Sixteen Million
98 Dollars (\$16,000,000.00) for taxable years 1990 and thereafter
99 shall be paid as follows:

100 (i) An amount of Three Million Forty Thousand
101 Dollars (\$3,040,000.00) annually, beginning with fiscal year 1991,
102 shall be transferred by the Department of Revenue to Claiborne
103 County. Such payments may be expended by the Board of Supervisors
104 of Claiborne County for any purpose for which a county is
105 authorized by law to levy an ad valorem tax and shall not be
106 included or considered as proceeds of ad valorem taxes for the
107 purposes of the growth limitation on ad valorem taxes under
108 Sections 27-39-305 and 27-39-321. However, should the Board of
109 Supervisors of Claiborne County withdraw its support of the Grand
110 Gulf Nuclear Station off-site emergency plan or otherwise fail to
111 satisfy its off-site emergency plan commitments as determined by
112 the Mississippi Emergency Management Agency and the Federal
113 Emergency Management Agency, Five Hundred Thousand Dollars
114 (\$500,000.00) annually of the funds designated for Claiborne
115 County as described by this * * * subparagraph (i) shall be
116 deposited in the Grand Gulf Disaster Assistance Fund as provided
117 in Section 33-15-51.

118 (ii) An amount of One Hundred Sixty Thousand
119 Dollars (\$160,000.00) annually, beginning with fiscal year 1991,



120 shall be transferred by the Department of Revenue to the City of
121 Port Gibson, Mississippi. Such payments may be expended by the
122 Board of Aldermen of the City of Port Gibson for any purpose for
123 which a municipality is authorized by law to levy an ad valorem
124 tax and shall not be included or considered as proceeds of ad
125 valorem taxes for the purposes of the growth limitation on ad
126 valorem taxes under Sections 27-39-305 and 27-39-321. However,
127 should the Board of Aldermen of the City of Port Gibson withdraw
128 its support of the Grand Gulf Nuclear Station off-site emergency
129 plan or otherwise fail to satisfy its off-site emergency plan
130 commitment, as determined by the Mississippi Emergency Management
131 Agency and the Federal Emergency Management Agency, Fifty Thousand
132 Dollars (\$50,000.00) annually of the funds designated for the City
133 of Port Gibson as described by this * * * subparagraph (ii) shall
134 be deposited in the Grand Gulf Disaster Assistance Fund as
135 provided in Section 33-15-51.

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

141 (c) Pursuant to certification by the Attorney General
142 to the State Treasurer and the Department of Revenue that the suit
143 against the State of Mississippi pending on the effective date of
144 House Bill 8, First Extraordinary Session of 1990, [Laws, 1990 Ex



145 Session, Ch. 12, eff June 26, 1990], in the Chancery Court for the
146 First Judicial District of Hinds County, Mississippi, styled
147 Albert Butler et al v. the Mississippi State Tax Commission et al,
148 has been voluntarily dismissed with prejudice as to all plaintiffs
149 at the request of the complainants and that no attorney's fees or
150 court costs have been assessed against the state and each of the
151 parties, including Claiborne County and each municipality and
152 school district located in the county, have signed and delivered
153 to the Attorney General a full and complete release in favor of
154 the State of Mississippi and its elected officials of all claims
155 that have been asserted or may be asserted in the suit pending on
156 the effective date of House Bill 8, First Extraordinary Session of
157 1990, [Laws, 1990 Ex Session, Ch. 12, eff June 26, 1990], in the
158 Chancery Court for the First Judicial District of Hinds County,
159 Mississippi, styled Albert Butler et al v. the Mississippi State
160 Tax Commission et al, and the deposit into the State General Fund
161 of in-lieu payments and interest thereon due the state under
162 subsection (3) (b) of this section but placed in escrow because of
163 the lawsuit described above, the state shall promptly transfer to
164 the Board of Supervisors of Claiborne County out of the State
165 General Fund an amount of Two Million Dollars (\$2,000,000.00)
166 which shall be a one-time distribution to Claiborne County from
167 the state. Such payment may be expended by the Board of
168 Supervisors of Claiborne County for any purposes for which a
169 county is authorized by law to levy an ad valorem tax and shall



170 not be included or considered as proceeds of ad valorem taxes for
171 the purposes of the growth limitation on ad valorem taxes for the
172 1991 fiscal year under Sections 27-39-321 and 27-39-305.

173 (d) After distribution of the one-time payment to
174 Claiborne County as set forth in subsection (3)(c) of this
175 section, the Department of Revenue upon certification that the
176 pending lawsuit as described in subsection (3)(c) of this section
177 has been voluntarily dismissed shall promptly deposit an amount of
178 Five Hundred Thousand Dollars (\$500,000.00) into the Grand Gulf
179 Disaster Assistance Trust Fund as provided for in Section
180 33-15-51, which shall be a one-time payment, to be utilized in
181 accordance with the provisions of such section.

182 (e) After distribution of the one-time payment to
183 Claiborne County as set forth in subsection (3)(c) of this section
184 and the payment to the Grand Gulf Disaster Assistance Trust Fund
185 as set forth in subsection (3)(d) of this section, the Department
186 of Revenue upon certification that the pending lawsuit as
187 described in subsection (3)(c) of this section has been
188 voluntarily dismissed shall promptly distribute ten percent (10%)
189 of the remainder of the prior payments remaining in escrow to the
190 General Fund of the state and the balance of the prior payments
191 remaining in escrow shall be distributed to the counties and
192 municipalities in this state wherein such public utility has
193 rendered electric service in the proportion that the amount of
194 electric energy consumed by the retail customers of such public



195 utility in each county, excluding municipalities therein, and in
196 each municipality, for the next preceding fiscal year bears to the
197 total amount of electric energy consumed by all retail customers
198 of such public utility in the State of Mississippi for the next
199 preceding fiscal year. The payments distributed to the counties
200 and municipalities under this paragraph (e) may be expended by
201 such counties and municipalities for any lawful purpose and shall
202 not be included or considered as proceeds of ad valorem taxes for
203 the purposes of the growth limitation on ad valorem taxes under
204 Sections 27-39-321 and 27-39-305.

205 (f) After distribution of the payments for fiscal year
206 1991 as set forth in Section 19-9-151 and distribution of the
207 payments as provided for in subsection (3) (b) of this section, the
208 Department of Revenue shall distribute ten percent (10%) of the
209 remainder of the payments to the * * * Claiborne County School
210 District and the balance to the counties and municipalities in
211 this state wherein such public utility renders electric service in
212 the proportion that the amount of electric energy consumed by the
213 retail customers of such public utility in each county, excluding
214 municipalities therein, and in each municipality for the next
215 preceding fiscal year bears to the total amount of electric energy
216 consumed by all retail customers of such public utility in the
217 State of Mississippi for the next preceding fiscal year.



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

221 (h) The revenues received by counties and
222 municipalities under paragraph (f) of this subsection shall not be
223 included or considered as proceeds of ad valorem taxes for the
224 purposes of the growth limitation on ad valorem taxes under
225 Sections 27-39-305 and 27-39-321.

226 **SECTION 2.** This act shall take effect and be in force from
227 and after July 1, 2024.

