

By: Representative McCoy

To: Ways and Means

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1291

1 AN ACT TO AMEND SECTIONS 27-35-309 AND 27-35-313, MISSISSIPPI
2 CODE OF 1972, TO REVISE THE AMOUNT OF TIME THAT ASSESSMENTS OF
3 PUBLIC UTILITY PROPERTY REMAIN OPEN AND SUBJECT TO OBJECTION; AND
4 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 State Tax Commission 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 said
12 company's property, both real and personal, tangible and
13 intangible. The State Tax Commission 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 State Tax
19 Commission 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 commission, 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 State Tax Commission 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 State Tax Commission, and be
41 for such time subject to the objections thereto which may be
42 filed; but real estate belonging to railroads and which forms no
43 part of the road, and is wholly disconnected from its railroad
44 business, shall not be assessed by the State Tax Commission, but
45 shall be assessed as other real estate is assessed by the tax
46 assessor of the county where situated.

47 (b) The apportionment of the assessed value as required
48 by this section shall be filed with the State Tax Commission by
49 such public service company on or before the first day of August
50 in each year. If such company shall fail, refuse or neglect to
51 render the apportionment of assessed value as required by this
52 section, such company shall be subject to the penalties provided
53 for in Section 27-35-305. The filing of an objection by such
54 public service company shall not preclude such company from filing
55 the property apportionment as required by this section.

56 (3) Any nuclear generating plant which is located in the
57 state, which is owned or operated by a public utility rendering
58 electric service within the state and not exempt from ad valorem
59 taxation under any other statute and which is not owned or

60 operated by an instrumentality of the federal government shall be
61 exempt from county, municipal and district ad valorem taxes. In
62 lieu of the payment of county, municipal and district ad valorem
63 taxes, such public utility shall pay to the State Tax Commission a
64 sum based on the assessed value of such nuclear generating plant
65 in an amount to be determined and distributed as follows:

66 (a) The State Tax Commission shall annually assign an
67 assessed value to any nuclear generating plant described in this
68 subsection in the same manner as for ad valorem tax purposes by
69 using accepted industry methods for appraising and assessing
70 public utility property. The assessed value assigned shall be
71 used for the purpose of determining the in-lieu tax due under this
72 section and shall not be included on the ad valorem tax rolls of
73 the situs taxing authority nor be subject to ad valorem taxation
74 by the situs taxing authority nor shall the assessed value
75 assigned be used in determining the debt limit of the situs taxing
76 authority. However, the assessed value so assigned may be used by
77 the situs taxing authority for the purpose of determining salaries
78 of its public officials.

79 (b) On or before February 1, 1987, for the 1986 taxable
80 year and on or before February 1 of each year through the 1989
81 taxable year, such utility shall pay to the State Tax Commission a
82 sum equal to two percent (2%) of the assessed value as ascertained
83 by the State Tax Commission, but such payment shall not be less
84 than Sixteen Million Dollars (\$16,000,000.00) for any of the four
85 (4) taxable years; all such payments in excess of Sixteen Million
86 Dollars (\$16,000,000.00) for these four (4) taxable years shall be
87 paid into the General Fund of the state. On or before February 1,
88 1991, for the 1990 taxable year and on or before February 1 of
89 each year thereafter, such utility shall pay to the State Tax
90 Commission a sum equal to two percent (2%) of the assessed value
91 as ascertained by the State Tax Commission, but such payment shall
92 not be less than Twenty Million Dollars (\$20,000,000.00) for any

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

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

115 (ii) An amount of One Hundred Sixty Thousand
116 Dollars (\$160,000.00) annually, beginning with fiscal year 1991,
117 shall be transferred by the State Tax Commission to the City of
118 Port Gibson, Mississippi. Such payments may be expended by the
119 Board of Aldermen of the City of Port Gibson for any purpose for
120 which a municipality is authorized by law to levy an ad valorem
121 tax and shall not be included or considered as proceeds of ad
122 valorem taxes for the purposes of the growth limitation on ad
123 valorem taxes under Sections 27-39-305 and 27-39-321. Provided,
124 however, should the Board of Aldermen of the City of Port Gibson
125 withdraw its support of the Grand Gulf Nuclear Station off-site

126 emergency plan or otherwise fail to satisfy its off-site emergency
127 plan commitment, as determined by the Mississippi Emergency
128 Management Agency and the Federal Emergency Management Agency,
129 Fifty Thousand Dollars (\$50,000.00) annually of the funds
130 designated for the City of Port Gibson as described by this
131 subsection (ii) shall be deposited in the Grand Gulf Disaster
132 Assistance Fund as provided in Section 33-15-51.

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

138 (c) Pursuant to certification by the Attorney General
139 to the State Treasurer and the State Tax Commission that the suit
140 against the State of Mississippi pending on the effective date of
141 House Bill 8, First Extraordinary Session of 1990, [Laws, 1990 Ex
142 Session, Ch. 12, eff June 26, 1990], in the Chancery Court for the
143 First Judicial District of Hinds County, Mississippi, styled
144 Albert Butler et al v. the Mississippi State Tax Commission et al,
145 has been voluntarily dismissed with prejudice as to all plaintiffs
146 at the request of the complainants and that no attorney's fees or
147 court costs have been assessed against the state and each of the
148 parties, including Claiborne County and each municipality and
149 school district located in the county, have signed and delivered
150 to the Attorney General a full and complete release in favor of
151 the State of Mississippi and its elected officials of all claims
152 that have been asserted or may be asserted in the suit pending on
153 the effective date of House Bill 8, First Extraordinary Session of
154 1990, [Laws, 1990 Ex Session, Ch. 12, eff June 26, 1990], in the
155 Chancery Court for the First Judicial District of Hinds County,
156 Mississippi, styled Albert Butler et al v. the Mississippi State
157 Tax Commission et al, and the deposit into the State General Fund
158 of in-lieu payments and interest thereon due the state under

159 subsection (3)(b) of this section but placed in escrow because of
160 the lawsuit described above, the state shall promptly transfer to
161 the Board of Supervisors of Claiborne County out of the State
162 General Fund an amount of Two Million Dollars (\$2,000,000.00)
163 which shall be a one-time distribution to Claiborne County from
164 the state. Such payment may be expended by the Board of
165 Supervisors of Claiborne County for any purposes for which a
166 county is authorized by law to levy an ad valorem tax and shall
167 not be included or considered as proceeds of ad valorem taxes for
168 the purposes of the growth limitation on ad valorem taxes for the
169 1991 fiscal year under Sections 27-39-321 and 27-39-305.

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

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

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

202 (f) After distribution of the payments for fiscal year
203 1991 as set forth in Section 19-9-151 and distribution of the
204 payments as provided for in subsection (3)(b) of this section, the
205 State Tax Commission shall distribute ten percent (10%) of the
206 remainder of the payments to the General Fund of the state and the
207 balance to the counties and municipalities in this state wherein
208 such public utility renders electric service in the proportion
209 that the amount of electric energy consumed by the retail
210 customers of such public utility in each county, excluding
211 municipalities therein, and in each municipality for the next
212 preceding fiscal year bears to the total amount of electric energy
213 consumed by all retail customers of such public utility in the
214 State of Mississippi for the next preceding fiscal year.

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

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

223 SECTION 2. Section 27-35-313, Mississippi Code of 1972, is
224 amended as follows:

225 27-35-313. So soon as the assessment rolls have remained
226 subject to objection for twenty (20) days, and when all
227 objections, if any, are disposed of, the assessment rolls shall be
228 approved by order of the State Tax Commission, and a certified
229 copy of the same shall be sent immediately to the clerks of the
230 board of supervisors of the respective counties, who shall file
231 and preserve the same as a record.

232 SECTION 3. This act shall take effect and be in force from
233 and after its passage.