

By: Senator(s) Minor

To: Public Utilities;
Finance

SENATE BILL NO. 2441

1 AN ACT TO AMEND SECTIONS 27-33-11 AND 27-33-35, MISSISSIPPI
2 CODE OF 1972, TO AUTHORIZE THE STATE TAX COMMISSION TO REQUIRE THE
3 HOMESTEAD EXEMPTION SUPPLEMENTAL ROLL TO BE PREPARED AND
4 MAINTAINED ON ELECTRONIC MEDIA; TO AMEND SECTIONS 27-35-309 AND
5 27-35-313, MISSISSIPPI CODE OF 1972, TO CLARIFY THE MANNER IN
6 WHICH PROPERTY OF A PUBLIC UTILITY THAT IS LOCATED IN MORE THAN
7 ONE STATE IS APPORTIONED BY THE STATE TAX COMMISSION AND TO REVISE
8 THE AMOUNT OF TIME THAT ASSESSMENTS OF PUBLIC UTILITY PROPERTY
9 REMAIN OPEN AND SUBJECT TO OBJECTION; AND FOR RELATED PURPOSES.

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

11 SECTION 1. Section 27-33-11, Mississippi Code of 1972, is
12 amended as follows:

13 27-33-11. The subject words and terms of this section, for
14 the purpose of this article, shall have meaning as follows:

15 (a) "Tax loss" means the exemption from ad valorem
16 taxes allowed homeowners in this article. "Reimbursement of tax
17 loss" means the amount of tax losses to be reimbursed to each
18 taxing unit as determined by Sections 27-33-77 and 27-33-79.

19 (b) "Taxing unit" means (i) any county, (ii) any
20 special municipal separate school district with or without added
21 territory, (iii) any municipal separate school district with or
22 without added territory, and (iv) any municipality.

23 (c) "Added territory" means territory or land lying
24 outside of a municipality, added or annexed to and being a part of
25 a municipal separate school district and subject to the tax
26 permitted to be imposed by the district for school purposes as
27 provided by Chapter 57, Title 37, Mississippi Code of 1972.

28 (d) "Municipality" means a city, town or village which
29 is legally incorporated and which has not been automatically

30 abolished according to the provisions of Sections 21-1-49 and
31 21-1-51 or by other lawful process, and in which taxes are
32 assessed, levied and collected.

33 (e) "Depository" means the bank or institution and
34 place officially designated as the depository for funds of a
35 county.

36 (f) "Apartment" means rooms in an eligible dwelling
37 with space and facilities for sleeping and with space and
38 facilities, or equipment, for preparing and serving meals, which
39 equipment is supplied by the owner or tenant, or both: (1) in a
40 building constructed as a dwelling for two (2) or more families,
41 or (2) in an ordinary dwelling, consisting of three (3) or more
42 rooms, exclusive of a bathroom; in either case rented or leased or
43 available for rent or lease, or occupied by a family group other
44 than the owner. One (1) or two (2) rooms rented and used for
45 housekeeping shall be counted as rented rooms.

46 (g) "Commission" means the State Tax Commission of the
47 State of Mississippi.

48 (h) "Auditor" means the Auditor of Public Accounts of
49 the State of Mississippi.

50 (i) "Treasurer" means the Treasurer of the State of
51 Mississippi.

52 (j) "Officer or officers" includes the county tax
53 assessor, the members of the county board of supervisors, the
54 clerk of the board of supervisors, the chancery clerk, the county
55 tax collector, and the legally authorized deputies of each.

56 (k) * * * "Eligible" when used in this article, (1)
57 with reference to persons means those persons who are eligible
58 under the terms of this article for homestead exemption, or (2)
59 with reference to property means the real property eligible for
60 exemption as a homestead under the terms of this article as to
61 title, quantity, occupancy, use to which put, and other conditions
62 required by this article, or (3) with reference to title or

63 ownership means title to or ownership of real property as defined
64 in Section 27-33-17.

65 (1) "He" and other pronouns in the masculine
66 gender * * * embrace a female as well as a male, unless a contrary
67 intention is disclosed by the context.

68 (m) "Adjoining land, or land actually joined" * * *
69 means two (2) separately described tracts of land having at one or
70 more points a common boundary, or where the corners of the two (2)
71 tracts actually touch, but two (2) tracts connected by an easement
72 or by a narrow strip of land as a right-of-way for ingress and
73 egress shall not be treated as adjoining, or actually joined.

74 (n) "Supplemental roll" means a list containing the
75 amount of the assessment of all lands and buildings which are all,
76 or a part, of exempt homesteads, and a list of the homeowners to
77 whom a homestead exemption has been allowed by the board for the
78 current year, and showing in strict alphabetical order the names
79 of all applicants to whom the exemption was granted, and in
80 vertical columns the amount of the assessment, the assessed value
81 of the exempted land and buildings, the assessed value of the land
82 and buildings not exempted, the page and line number of the
83 regular land roll where entered, the number of acres exempted the
84 dollar amount of exemption allowed and such other information as
85 the State Tax Commission may require. The commission shall
86 prescribe the form of the supplemental roll and may require such
87 rolls to be prepared and maintained on electronic media. The
88 supplemental roll, as herein defined, is hereby made a legal
89 supplement to and a part of the complete land assessment roll of
90 the county or municipality and shall be subject to all laws
91 relating to assessment rolls and particularly Sections 27-35-117,
92 27-35-123 and 27-35-125 as far as applicable and not inconsistent
93 with the provisions of this article.

94 The supplemental roll, when certified by the clerk of the
95 board of supervisors and delivered to the tax collector, shall be

96 his warrant to allow the amount of the tax exemption to each
97 person as a credit on or deduction from the gross amount of the
98 taxes charged to that person on the assessment roll.

99 (o) "Ad valorem tax" means any tax where the amount
100 levied is based upon or determined by the value of the property
101 subject to the tax.

102 SECTION 2. Section 27-33-35, Mississippi Code of 1972, is
103 amended as follows:

104 27-33-35. The clerk of the board of supervisors shall keep
105 all records and documents relating to homestead exemption matters
106 coming before the board and perform such services as are generally
107 required of him by Section 19-3-27, and in addition to such
108 general duties:

109 (a) He shall receive applications for homestead
110 exemption as they are delivered to him by the tax assessor, as
111 required in Section 27-33-33(g); and before June 1 and in the
112 manner prescribed by the rules and regulations of the Tax
113 Commission, he shall forward the originals of all applications to
114 the commission in Jackson, Mississippi, and (1) on the first day
115 of each regular monthly meeting of the board of supervisors he
116 shall present to it all applications for homestead exemption in
117 his hands at that time for the board's consideration, as directed
118 hereafter in this article, (2) when not in use, said applications
119 shall be kept on file in alphabetical order, and (3) at the end of
120 each current year he shall deliver duplicate homestead exemption
121 applications that are no longer valid to the chancery clerk of the
122 county to be held by him as a public record for at least three (3)
123 years. This shall also include all applications disallowed by the
124 board.

125 (b) He shall make the supplemental roll of homestead
126 exemptions granted from the applications therefor (not from the
127 land roll), the year the land roll is made, as soon as reasonably
128 possible after the roll has been approved by the commission and

129 has been finally approved of minute record by the board of
130 supervisors, and only after the board has approved or disapproved
131 all applications.

132 (c) He shall make the supplemental roll as
133 prescribed * * * by the commission.

134 (d) He shall make the proper entry in all columns on
135 the supplemental roll, as defined in Section 27-33-11(n), and
136 shall make all proper extensions and add truly and correctly each
137 column of values of each page of said roll and carry the results
138 thereof to the grand total; and shall certify a copy of the
139 supplemental roll to the tax collector in the same manner as the
140 regular assessment roll is certified.

141 (e) He shall make in triplicate the supplemental roll
142 and the original shall be forwarded immediately to the commission,
143 one (1) copy shall be attached to the original land assessment
144 roll, and the other copy shall be delivered to the tax collector
145 as a legal part of the regular land assessment roll, as provided
146 by Section 27-33-11(n). In counties having two (2) judicial
147 districts, he shall make four (4) copies, one (1) for each
148 judicial district, or separate rolls for each district, as may be
149 directed by order of the board of supervisors. The original
150 supplemental roll shall be forwarded to the commission no later
151 than December 31 of each year.

152 (f) He shall also prepare two (2) certificates of tax
153 loss from the approved applications for homestead exemption and
154 from current legally completed land assessment roll, including the
155 supplemental roll as defined in Section 27-33-11(n), which
156 certificates shall be made on forms to be prescribed and furnished
157 by the commission. One (1) certificate shall reflect the tax loss
158 incurred because of the exemptions provided to applicants under
159 the age of sixty-five (65) and not disabled as defined in this
160 article, and the other shall reflect the tax loss incurred because

161 of the exemptions provided to applicants aged sixty-five (65) or
162 over and disabled as defined in this article.

163 In regard to certificates evidencing tax losses for
164 exemptions granted from taxes due and payable in 1985, the
165 certificates shall show truly and correctly the following
166 information:

167 (1) The total assessed value of real estate;

168 (2) The total exempted assessed value of
169 homesteads;

170 (3) The exempt tax rates, except the state rate,
171 expressed in mills, or a decimal fraction of a mill, which apply
172 to the exempted assessed value of homes;

173 (4) The total tax loss resulting from application
174 of those rates to the total exempted assessed value of homes; and

175 (5) Such additional information as the commission
176 may require.

177 Certificates evidencing tax losses for exemptions granted
178 from taxes due and payable in 1986 and for subsequent years
179 thereafter shall show truly and correctly the total number of
180 applications allowed for homestead exemption and the total tax
181 loss resulting from applications allowed for homestead exemption;
182 and such additional information as the commission may require.

183 The certificates shall be made in triplicate and be certified
184 by him as being true and correct; and not later than December 31
185 of each year he shall forward the original certificates to the
186 commission, deliver the duplicate certificates to the tax
187 collector, and retain the triplicate certificates in his file as a
188 public record. Certificates received later than June 1 of the
189 year following the year in which the supplemental roll is made
190 shall not be considered for reimbursement by the commission.

191 SECTION 3. Section 27-35-309, Mississippi Code of 1972, is
192 amended as follows:

193 27-35-309. (1) The State Tax Commission shall, if
194 practicable, on or before the first Monday of June of each year,
195 make out for each person, firm, company or corporation listed in
196 Section 27-35-303, Mississippi Code of 1972, an assessment of said
197 company's property, both real and personal, tangible and
198 intangible. The State Tax Commission shall apportion the
199 assessment of value of each company's property according to the
200 provisions of this article, except as provided in subsection (3)
201 of this section, as follows:

202 (a) When the property of such public service company is
203 located in more than one (1) county in this state, the State Tax
204 Commission shall direct the company to apportion the assessed
205 value between the counties and municipalities and all other taxing
206 districts therein, in the proportion which the property located
207 therein bears to the entire value of the property of such company
208 as valued by the commission, so that to each county, municipality
209 and taxing district therein, there shall be apportioned such part
210 of the entire valuation as will fairly equalize the relative value
211 of the property therein located to the whole value thereof.

212 (b) When the property of such public utility required
213 to be assessed by the provisions of this article is located in
214 more than one (1) state, the assessed value thereof shall be
215 apportioned by the State Tax Commission based on the ratio that
216 the total original cost of operating property or business within
217 this state bears to the original cost of operating property or
218 business within and without this state.

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

224 (2) (a) The assessment when made shall remain open for
225 twenty (20) days in the office of the State Tax Commission, and be

226 for such time subject to the objections thereto which may be
227 filed; but real estate belonging to railroads and which forms no
228 part of the road, and is wholly disconnected from its railroad
229 business, shall not be assessed by the State Tax Commission, but
230 shall be assessed as other real estate is assessed by the tax
231 assessor of the county where situated.

232 (b) The apportionment of the assessed value as required
233 by this section shall be filed with the State Tax Commission by
234 such public service company on or before the first day of August
235 in each year. If such company shall fail, refuse or neglect to
236 render the apportionment of assessed value as required by this
237 section, such company shall be subject to the penalties provided
238 for in Section 27-35-305. The filing of an objection by such
239 public service company shall not preclude such company from filing
240 the property apportionment as required by this section.

241 (3) Any nuclear generating plant which is located in the
242 state, which is owned or operated by a public utility rendering
243 electric service within the state and not exempt from ad valorem
244 taxation under any other statute and which is not owned or
245 operated by an instrumentality of the federal government shall be
246 exempt from county, municipal and district ad valorem taxes. In
247 lieu of the payment of county, municipal and district ad valorem
248 taxes, such public utility shall pay to the State Tax Commission a
249 sum based on the assessed value of such nuclear generating plant
250 in an amount to be determined and distributed as follows:

251 (a) The State Tax Commission shall annually assign an
252 assessed value to any nuclear generating plant described in this
253 subsection in the same manner as for ad valorem tax purposes by
254 using accepted industry methods for appraising and assessing
255 public utility property. The assessed value assigned shall be
256 used for the purpose of determining the in-lieu tax due under this
257 section and shall not be included on the ad valorem tax rolls of
258 the situs taxing authority nor be subject to ad valorem taxation

259 by the situs taxing authority nor shall the assessed value
260 assigned be used in determining the debt limit of the situs taxing
261 authority. However, the assessed value so assigned may be used by
262 the situs taxing authority for the purpose of determining salaries
263 of its public officials.

264 (b) On or before February 1, 1987, for the 1986 taxable
265 year and on or before February 1 of each year through the 1989
266 taxable year, such utility shall pay to the State Tax Commission a
267 sum equal to two percent (2%) of the assessed value as ascertained
268 by the State Tax Commission, but such payment shall not be less
269 than Sixteen Million Dollars (\$16,000,000.00) for any of the four
270 (4) taxable years; all such payments in excess of Sixteen Million
271 Dollars (\$16,000,000.00) for these four (4) taxable years shall be
272 paid into the General Fund of the state. On or before February 1,
273 1991, for the 1990 taxable year and on or before February 1 of
274 each year thereafter, such utility shall pay to the State Tax
275 Commission a sum equal to two percent (2%) of the assessed value
276 as ascertained by the State Tax Commission, but such payment shall
277 not be less than Twenty Million Dollars (\$20,000,000.00) for any
278 taxable year for as long as such nuclear power plant is licensed
279 to operate and is not being permanently decommissioned; all such
280 payments in excess of Sixteen Million Dollars (\$16,000,000.00) for
281 taxable years 1990 and thereafter shall be paid as follows:

282 (i) An amount of Three Million Forty Thousand
283 Dollars (\$3,040,000.00) annually, beginning with fiscal year 1991,
284 shall be transferred by the State Tax Commission to Claiborne
285 County. Such payments may be expended by the Board of Supervisors
286 of Claiborne County for any purpose for which a county is
287 authorized by law to levy an ad valorem tax and shall not be
288 included or considered as proceeds of ad valorem taxes for the
289 purposes of the growth limitation on ad valorem taxes under
290 Sections 27-39-305 and 27-39-321. Provided, however, should the
291 Board of Supervisors of Claiborne County withdraw its support of

292 the Grand Gulf Nuclear Station off-site emergency plan or
293 otherwise fail to satisfy its off-site emergency plan commitments
294 as determined by the Mississippi Emergency Management Agency and
295 the Federal Emergency Management Agency, Five Hundred Thousand
296 Dollars (\$500,000.00) annually of the funds designated for
297 Claiborne County as described by this subsection (i) shall be
298 deposited in the Grand Gulf Disaster Assistance Fund as provided
299 in Section 33-15-51.

300 (ii) An amount of One Hundred Sixty Thousand
301 Dollars (\$160,000.00) annually, beginning with fiscal year 1991,
302 shall be transferred by the State Tax Commission to the City of
303 Port Gibson, Mississippi. Such payments may be expended by the
304 Board of Aldermen of the City of Port Gibson for any purpose for
305 which a municipality is authorized by law to levy an ad valorem
306 tax and shall not be included or considered as proceeds of ad
307 valorem taxes for the purposes of the growth limitation on ad
308 valorem taxes under Sections 27-39-305 and 27-39-321. Provided,
309 however, should the Board of Aldermen of the City of Port Gibson
310 withdraw its support of the Grand Gulf Nuclear Station off-site
311 emergency plan or otherwise fail to satisfy its off-site emergency
312 plan commitment, as determined by the Mississippi Emergency
313 Management Agency and the Federal Emergency Management Agency,
314 Fifty Thousand Dollars (\$50,000.00) annually of the funds
315 designated for the City of Port Gibson as described by this
316 subsection (ii) shall be deposited in the Grand Gulf Disaster
317 Assistance Fund as provided in Section 33-15-51.

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

323 (c) Pursuant to certification by the Attorney General
324 to the State Treasurer and the State Tax Commission that the suit

325 against the State of Mississippi pending on the effective date of
326 House Bill 8, First Extraordinary Session of 1990, [Laws, 1990 Ex
327 Session, Ch. 12, eff June 26, 1990], in the Chancery Court for the
328 First Judicial District of Hinds County, Mississippi, styled
329 Albert Butler et al v. the Mississippi State Tax Commission et al,
330 has been voluntarily dismissed with prejudice as to all plaintiffs
331 at the request of the complainants and that no attorney's fees or
332 court costs have been assessed against the state and each of the
333 parties, including Claiborne County and each municipality and
334 school district located in the county, have signed and delivered
335 to the Attorney General a full and complete release in favor of
336 the State of Mississippi and its elected officials of all claims
337 that have been asserted or may be asserted in the suit pending on
338 the effective date of House Bill 8, First Extraordinary Session of
339 1990, [Laws, 1990 Ex Session, Ch. 12, eff June 26, 1990], in the
340 Chancery Court for the First Judicial District of Hinds County,
341 Mississippi, styled Albert Butler et al v. the Mississippi State
342 Tax Commission et al, and the deposit into the State General Fund
343 of in-lieu payments and interest thereon due the state under
344 subsection (3)(b) of this section but placed in escrow because of
345 the lawsuit described above, the state shall promptly transfer to
346 the Board of Supervisors of Claiborne County out of the State
347 General Fund an amount of Two Million Dollars (\$2,000,000.00)
348 which shall be a one-time distribution to Claiborne County from
349 the state. Such payment may be expended by the Board of
350 Supervisors of Claiborne County for any purposes for which a
351 county is authorized by law to levy an ad valorem tax and shall
352 not be included or considered as proceeds of ad valorem taxes for
353 the purposes of the growth limitation on ad valorem taxes for the
354 1991 fiscal year under Sections 27-39-321 and 27-39-305.

355 (d) After distribution of the one-time payment to
356 Claiborne County as set forth in subsection (3)(c) of this
357 section, the State Tax Commission upon certification that the

358 pending lawsuit as described in subsection (3)(c) of this section
359 has been voluntarily dismissed shall promptly deposit an amount of
360 Five Hundred Thousand Dollars (\$500,000.00) into the Grand Gulf
361 Disaster Assistance Trust Fund as provided for in Section
362 33-15-51, which shall be a one-time payment, to be utilized in
363 accordance with the provisions of such section.

364 (e) After distribution of the one-time payment to
365 Claiborne County as set forth in subsection (3)(c) of this section
366 and the payment to the Grand Gulf Disaster Assistance Trust Fund
367 as set forth in subsection (3)(d) of this section, the State Tax
368 Commission upon certification that the pending lawsuit as
369 described in subsection (3)(c) of this section has been
370 voluntarily dismissed shall promptly distribute ten percent (10%)
371 of the remainder of the prior payments remaining in escrow to the
372 General Fund of the state and the balance of the prior payments
373 remaining in escrow shall be distributed to the counties and
374 municipalities in this state wherein such public utility has
375 rendered electric service in the proportion that the amount of
376 electric energy consumed by the retail customers of such public
377 utility in each county, excluding municipalities therein, and in
378 each municipality, for the next preceding fiscal year bears to the
379 total amount of electric energy consumed by all retail customers
380 of such public utility in the State of Mississippi for the next
381 preceding fiscal year. The payments distributed to the counties
382 and municipalities under this paragraph (e) may be expended by
383 such counties and municipalities for any lawful purpose and shall
384 not be included or considered as proceeds of ad valorem taxes for
385 the purposes of the growth limitation on ad valorem taxes under
386 Sections 27-39-321 and 27-39-305.

387 (f) After distribution of the payments for fiscal year
388 1991 as set forth in Section 19-9-151 and distribution of the
389 payments as provided for in subsection (3)(b) of this section, the
390 State Tax Commission shall distribute ten percent (10%) of the

391 remainder of the payments to the General Fund of the state and the
392 balance to the counties and municipalities in this state wherein
393 such public utility renders electric service in the proportion
394 that the amount of electric energy consumed by the retail
395 customers of such public utility in each county, excluding
396 municipalities therein, and in each municipality for the next
397 preceding fiscal year bears to the total amount of electric energy
398 consumed by all retail customers of such public utility in the
399 State of Mississippi for the next preceding fiscal year.

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

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

408 SECTION 4. Section 27-35-313, Mississippi Code of 1972, is
409 amended as follows:

410 27-35-313. So soon as the assessment rolls have remained
411 subject to objection for twenty (20) days, and when all
412 objections, if any, are disposed of, the assessment rolls shall be
413 approved by order of the State Tax Commission, and a certified
414 copy of the same shall be sent immediately to the clerks of the
415 board of supervisors of the respective counties, who shall file
416 and preserve the same as a record.

417 SECTION 5. This act shall take effect and be in force from
418 and after its passage.