

**IN THE FIRST SESSION OF THE EIGHTH PARLIAMENT OF THE  
FOURTH REPUBLIC OF GHANA**

**REPORT OF THE FINANCE COMMITTEE**  
**ON THE ENERGY SECTOR LEVIES**  
**(AMENDMENT) BILL, 2021**

**1.0 INTRODUCTION**

The **Energy Sector Levies (Amendment) Bill, 2021** was presented and read the first time in the House on Friday 26<sup>th</sup> March, 2021 by the Hon. Minister of State responsible for the Ministry of Finance, Mr. Osei Kyei-Mensah-Bonsu.

The Bill was subsequently referred to the Finance Committee for consideration and report in accordance with Article 103 of the 1992 Constitution and Order 169 of the Standing Orders of the House.

The Committee met and considered the Bill with the President's representative at the Ministry of Finance, Hon. Charles Adu-Boahen, a Senior Technical Advisor at the Ministry of Finance, Hon. Abena Osei-Asare and a team of officials from the Ministry of Finance, the Ghana Revenue Authority and the Attorney General's Department.

The Committee is grateful to the President's representative at the Ministry of Finance, the Senior Technical Advisor and the team of officials for attending upon the Committee.

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## **1.1 URGENCY OF THE BILL**

The Committee determined and hereby certifies that the Bill is of an urgent nature and may be taken through all the stages of passage in one day in accordance with Article 106(13) of the 1992 Constitution and Order 119 of the Standing Orders of the House.

## **2.0 REFERENCES**

The Committee referred to and was guided by the following documents *inter alia* during its deliberations on the Bill:

- The 1992 Constitution of the Republic of Ghana
- The Standing Orders of the Parliament of Ghana
- Interpretation Act, 2009 (Act 792)
- Public Financial Management Act, 2016 (Act 921)
- Revenue Administration Act, 2016 (Act 915); and
- Energy Sector Levies Act, 2015 (Act 899)

## **3.0 BACKGROUND INFORMATION**

The Energy Sector Levies Act, 2015 (Act 899), was enacted to consolidate the existing Energy Sector levies for their efficient utilization, defray legacy debts and other liabilities within the Energy Sector, facilitate sustainable long-term investments in the energy sector, and provide for related matters.

Since its passage in 2015, the Energy Sector Levies have contributed significantly to the part payment of the legacy liabilities of State-Owned Enterprises operating in the sector. More recently however, as new Power Purchase Agreements have come on stream, the excess capacity charges resulting from the 'take or pay' nature of the power Purchase Agreements have continued to accumulate to extraordinary levels. The situation is further compounded by the inability of the Electricity Company of Ghana to pay for Light Crude Oil and Diesel supplied via the banks to generate power under the terms of the Power Purchase Agreements.

Since these capacity charges cannot typically be passed on to the consumer in its entirety through an increase in the end user tariff, Government has had to constantly step in, even in the face of tight fiscal stance and budget rigidities, to support the Electricity Company of Ghana defray these costs in order to ensure continuous supply of power to businesses and households, as well as avert the negative ramifications of breaching the Power Purchase Agreements.

An assessment of the performance of ongoing sector-wide reforms under the Energy Sector Recovery Programme supported by the World Bank, revealed that the successes achieved in the sector since 2017, which include the clearance of legacy liabilities under the Energy Sector Levies Act and the rollout of the cash waterfall mechanism, will be eroded if

measures are not taken to minimise the huge fiscal burden created by the continuous support of Government to the Electricity Distribution Companies to fund requests submitted for power, capacity and feedstock.

Additionally, the Sanitation and Pollution Levy is being imposed on specified petroleum products to provide funds to support programmes and projects to improve air quality and provide sustainable funding for the collection, treatment and disposal of liquid and solid waste. The proceeds from the Sanitation and Pollution Levy will be utilized to improve air quality in urban areas of the country, combat pollution, design, construct, re-engineer and maintain waste disposal and treatment plants including land fill sites and medical and other specialized waste treatment facilities. The proceeds from the Levy are to be utilized for the construction of sanitation facilities to accelerate the elimination of open defecation and provide support for fumigation of public spaces, schools, health centres and markets.

#### **4.0 OBJECT OF THE BILL**

The object of the Bill is to amend the Energy Sector Levies Act, 2015 (Act 899) to provide for an Energy Sector Recovery Levy and Sanitation and Pollution Levy.

## **5.0 CONTENTS OF THE BILL**

The Bill contains a total of three (3) clauses.

*Clause 1* of the Bill amends Section 5 of Act 899 to empower the Minister to cause to be opened and maintained an account to receive moneys realized from the Energy Sector Recovery Levy. Moneys in the account are to be used to support the payment of capacity charges in the Energy Sector and to pay Energy Sector bills.

The *clause* further establishes a Sanitation and Pollution Levy to be imposed on specified petroleum products.

*Clause 2* amends Section 6 of Act 899 to provide for the realignment of levies collected in excess of the annual target and unutilized balances to alleviate funding shortfalls for the purposes of sections 3, 4 and 5 of the Act.

*Clause 3* amends the First Schedule to Act 899 by including the Energy Sector Recovery Levy and Sanitation and Pollution Levy as part of the levies imposed under Act 899.

## **6.0 OBSERVATIONS**

### **6.1 Utilization of the Energy Sector Recovery Levy**

The Committee noted that the proceeds from the Energy Sector Recovery Levy will be utilised to meet the funding shortfall occasioned by the inability of the Electricity Distribution Companies to cover the cost of power supplied by Power Producers and the associated capacity costs and related matters.

## **6.2 Application of the Sanitation and Pollution Levy**

The Committee observed that air pollution and poor sanitation are major drivers of non-communicable diseases such as heart attacks, strokes and lung cancer which claim several lives every year.

The Sanitation and Pollution Levy will therefore be applied in accordance with the objective of Government to make Ghana one of the cleanest nations in Africa as well as contribute towards the achievement of Sustainable Development Goals 3 and 6.

This is to ensure among others, sustainable sanitation management for all, protect lives, livelihoods, the most vulnerable populations, and improve air quality.

## **6.3 Fiscal Impact**

It is estimated that total receipts from these two levies will be **Six Hundred and Sixty-Six Million, Two Hundred and Thirty Thousand Ghana Cedis (GH¢666,230,000)** and **Three Hundred and Eleven Million, Six Hundred and Sixty Thousand Ghana Cedis (GH¢311,660,000)** for the Energy Sector Recovery Levy and the Sanitation and Pollution Levy respectively in 2021.

## **6.4 Minority concerns on the ESLA taxes**

The Minority Members on the Committee through the Hon. Ranking Member stated that the Minority is not opposed to the passage of the Bill by consensus.

However, they were of the opinion that there was an earlier proposal for the upward adjustment in the Road Fund Levy (RFL), the Energy Debt Recovery Levy (EDRL) and the Price Stabilization and Recovery Levy (PSRL) in the 2019 Mid-year Budget Review speech by the Minister for Finance on Monday, 29 July 2019. The proposal by government was to increase the Energy Sector Levies by GHp20 per litre of petrol and diesel and GHp8 per kg for liquefied petroleum gas (LPG), to raise more revenue to enable Government address energy sector debt obligations.

They thus expressed surprise that the same government is attempting to increase the same levies for that particular purpose.

## **7.0 AMENDMENTS PROPOSED**

The Committee respectfully proposes the following amendments to the Bill:

- i. **Clause 1 – Amendment Proposed** – 5B(3)(b), *delete* and *insert* the following

“(b) design, construct and re-engineer solid and liquid waste treatment and disposal facilities including compost production facilities, recycling facilities, landfill sites, medical and other specialised waste treatment facilities;”

ii. **Clause 1 – Amendment Proposed** – 5B(3)(d), line 1, before “fumigation” *insert* “disinfestation, disinfection and” and after “schools” *insert* “lorry parks,”

iii. **Clause 1 – Amendment Proposed** – 5B(3), add a new paragraph (e) as follows:

(e) provide dedicated support for the maintenance and management of major landfill sites and other waste treatment plants and facilities across the country”

iv. **Clause 2 – Amendment Proposed** – “**Management of account**” – *Delete* lines 1-4.

v. **Clause 3 – Amendment Proposed**

(a) In the Third Column of the second row, delete paragraph (b) and insert the following:

“(b) design, construct and re-engineer solid and liquid waste treatment and disposal facilities including compost production facilities, recycling facilities, landfill sites, medical and other specialised waste treatment facilities;

(b) In the Third Column of the second row, delete paragraph (d) and insert the following:

“(d) support disinfestation, disinfection and fumigation of public spaces, schools, lorry parks, health centres and markets,”.



(c) In the Third Column of the second row, insert a new paragraph (e) as follows:

“(e) provide dedicated support for the maintenance and management of major landfill sites and other waste treatment plants and facilities across the country.”.

vi. Amendment Proposed – **Add a new clause** as follows:

**“ Section 8 of Act 899 amended**

**3.** The principal enactment is amended in section 8 by the insertion after the definition for “Debt Recovery Levy”, of “Feedstock” means fuel utilised by a power plant to generate or produce energy;”.

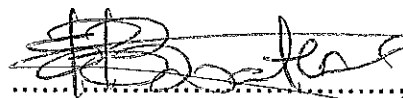
## **8.0 RECOMMENDATION AND CONCLUSION**

The Committee recommends to the House to adopt this Report and pass the **Energy Sector Levies (Amendment) Bill, 2021** into law, *subject to the amendments proposed*, in accordance with Article 106(13) of the 1992 Constitution and Order 119 of the Standing Orders of the House.

Respectfully Submitted.



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**HON. KWAKU KWARTENG**  
**(CHAIRMAN, FINANCE COMMITTEE)**



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**MS. EVELYN BREFO-BOATENG**  
**(CLERK, FINANCE COMMITTEE)**

**29<sup>TH</sup> MARCH, 2021**