

By: Ellis

To: Public Utilities;
Ways and Means

HOUSE BILL NO. 1295
(As Passed the House)

1 AN ACT TO AMEND SECTION 77-3-87, MISSISSIPPI CODE OF 1972, TO
2 CAP UTILITY REGULATION TAXES AT THE LEGISLATIVE APPROPRIATION FOR
3 PUBLIC UTILITY REGULATORY PURPOSES; AND FOR RELATED PURPOSES.

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

5 SECTION 1. Section 77-3-87, Mississippi Code of 1972, is
6 amended as follows:

7 77-3-87. All reasonable and necessary expenses of the
8 administration of the duties imposed on the Public Utilities Staff
9 and on the commission by Title 77, Mississippi Code of 1972,
10 excluding the reasonable and necessary expenses of the
11 administration and enforcement by the commission of the laws of
12 this state pursuant to Chapters 7 and 9 of Title 77, Mississippi
13 Code of 1972, shall be provided as follows: There is * * * levied
14 a tax upon: (a) all utilities, the rates of which are subject to
15 regulation by the provisions of this chapter; and upon (b) all
16 utilities not subject to such rate regulation which furnish to the
17 ultimate consumer utility services of the type described by
18 subparagraph (i) of paragraph (d) of Section 77-3-3 and otherwise
19 subject to regulation by the provisions of this chapter, such levy
20 to be effective on the first day of each year and to be calculated
21 as follows: The rate of the tax shall be one hundred sixty-four
22 thousandths of one percent (164/1000 of 1%) per year, of the gross
23 revenues from the intrastate operations of the utilities taxed
24 under this section. The rate of the tax for electric power
25 associations and rural electrification authorities shall be ninety
26 thousandths of one percent (90/1000 of 1%) per year of the gross

27 revenues from the intrastate operations of electric power
28 associations and rural electrification authorities taxed under
29 this section. The sum of all taxes levied by this section shall
30 not exceed an amount equal to the total legislative appropriation
31 of monies from the Public Utilities Staff Regulation Fund and the
32 Public Service Commission Regulation Fund for the ensuing fiscal
33 year. The commission and the Executive Director of the Public
34 Utilities Staff shall certify to the State Tax Commission the
35 amount of legislative appropriations of monies for the regulation
36 of utilities. The State Tax Commission shall adjust the tax rates
37 on a pro rata basis to generate the necessary revenues as
38 established by such legislative appropriations.

39 Each utility which is subject to the tax levied by this
40 section shall file a statement of its gross revenue by April 1 of
41 each year showing the gross revenue for the preceding year's
42 operation. These statements of gross revenue shall be filed with
43 the State Tax Commission on forms prescribed and furnished by the
44 State Tax Commission. The State Tax Commission shall file a copy
45 of these statements of gross revenue with the Public Utilities
46 Staff and the commission. The State Tax Commission shall
47 calculate the amount of tax to be paid by each of the utilities
48 and shall submit a statement thereof to the respective utilities,
49 and the amount shown due in the statements to the utilities shall
50 be paid by them within thirty (30) days thereafter to the State
51 Tax Commission. The State Tax Commission shall furnish the Public
52 Utilities Staff and the commission with an itemized list showing
53 gross and net revenues, assessments, tax collections and other
54 related information for the respective utilities. * * *

55 The State Tax Commission shall pay these funds into the State
56 Treasury on the same day collected to the credit of the "Public
57 Utilities Staff Regulation Fund" and to the "Public Service
58 Commission Regulation Fund" in the proportion that the legislative
59 appropriation of monies from each fund for the regulation of
60 utilities for the ensuing fiscal year bears to the total
61 legislative appropriation of monies from both funds for the
62 regulation of utilities for the ensuing fiscal year. * * *

63 All administrative provisions of the Mississippi Sales Tax

64 Law, including those which fix damages, penalties and interest for
65 nonpayment of taxes and for noncompliance with the provisions of
66 such chapter, and all other duties and requirements imposed upon
67 taxpayers, shall apply to all persons liable for taxes under the
68 provisions of this chapter, and the Tax Commissioner shall
69 exercise all the power and authority and perform all the duties
70 with respect to taxpayers under this chapter as are provided in
71 the Mississippi Sales Tax Law except where there is a conflict,
72 then the provisions of this chapter shall control. The term
73 "gross revenue" as used in this section is the total amount of all
74 revenue derived by each of the utilities from its intrastate
75 operations, which are subject to rate regulation under the
76 provisions of this chapter or which constitute utility services of
77 the type described by subparagraph (i) of paragraph (d) of Section
78 77-3-3 and which are regulated by this chapter and furnished to
79 ultimate consumers. The State Tax Commission is hereby authorized
80 to use all tax returns of any utilities available to it and to
81 make audits as may be deemed necessary of all records of utilities
82 in order to correctly determine the amount of such gross revenue.

83 All proceeds of the above-mentioned tax are hereby allocated
84 to the Public Utilities Staff and to the commission in the manner
85 provided in this section for the purpose of this chapter.

86 Each utility subject to the provisions of this section shall
87 be allowed to recover, through the use of a rate adjustment clause
88 or rider, the excess amount that the utility paid for the
89 reasonable and necessary expenses of the commission and the Public
90 Utilities Staff.

91 SECTION 2. Nothing in this act shall affect or defeat any
92 claim, assessment, appeal, suit, right or cause of action for
93 taxes due or accrued under Chapter 3, Title 77, Mississippi Code
94 of 1972, before the date on which this act becomes effective,
95 whether such claims, assessments, appeals, suits or actions have
96 been begun before the date on which this act becomes effective or

97 are begun thereafter; and the provisions of Chapter 3, Title 77,
98 Mississippi Code of 1972, are expressly continued in full force,
99 effect and operation for the purpose of the assessment, collection
100 and enrollment of liens for any taxes due or accrued and the
101 execution of any warrant under such laws before the date on which
102 this act becomes effective, and for the imposition of any
103 penalties, forfeitures or claims for failure to comply with such
104 laws.

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