

By: Ellis

To: Public Utilities;
Ways and Means

HOUSE BILL NO. 1295
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 77-3-87, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT UTILITY REGULATION TAXES SHALL NOT EXCEED THE TOTAL
3 LEGISLATIVE APPROPRIATION OF MONIES FROM THE PUBLIC UTILITIES
4 STAFF REGULATION FUND AND THE PUBLIC SERVICE COMMISSION REGULATION
5 FUND; AND FOR RELATED PURPOSES.

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

7 SECTION 1. Section 77-3-87, Mississippi Code of 1972, is
8 amended as follows:[JMR1]

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

28 shall be ninety thousandths of one percent (90/1000 of 1%) per
29 year of the gross revenues from the intrastate operations of
30 electric power associations and rural electrification authorities
31 taxed under this section. The sum of all taxes levied by this
32 section shall not exceed the total legislative appropriation of
33 monies from the "Public Utilities Staff Regulation Fund" and the
34 "Public Service Commission Regulation Fund" for the ensuing fiscal
35 year. The commission and the Executive Director of the Public
36 Utilities Staff shall certify to the State Tax Commission the
37 amount of legislative appropriations of monies for the regulation
38 of utilities. The State Tax Commission shall adjust the tax rates
39 on a pro rata basis to generate the necessary revenues established
40 by such legislative appropriations. Each utility which is subject
41 to the tax levied by this section shall file a statement of its
42 gross revenue by April 1 of each year showing the gross revenue
43 for the preceding year's operation. These statements of gross
44 revenue shall be filed with the State Tax Commission on forms
45 prescribed and furnished by the State Tax Commission. The State
46 Tax Commission shall file a copy of these statements of gross
47 revenue with the Public Utilities Staff and the commission. The
48 State Tax Commission shall calculate the amount of tax to be paid
49 by each of the utilities and shall submit a statement thereof to
50 the respective utilities, and the amount shown due in the
51 statements to the utilities shall be paid by them within thirty
52 (30) days thereafter to the State Tax Commission. The State Tax
53 Commission shall furnish the Public Utilities Staff and the
54 commission with an itemized list showing gross and net revenues,
55 assessments, tax collections and other related information for the
56 respective utilities. * * * The State Tax Commission shall pay
57 these funds into the State Treasury on the same day collected to
58 the credit of the "Public Utilities Staff Regulation Fund" and to
59 the "Public Service Commission Regulation Fund" in the proportion
60 that the legislative appropriation of monies from each fund for
61 the regulation of utilities for the ensuing fiscal year bears to
62 the total legislative appropriation of monies from both funds for
63 the regulation of utilities for the ensuing fiscal year. * * *

64 All administrative provisions of the Mississippi Sales Tax

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

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

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

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

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

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