

By: Representative White

To: Public Utilities

HOUSE BILL NO. 499

1 AN ACT TO REENACT SECTIONS 77-1-1, 77-1-3, 77-1-5, 77-1-6,
 2 77-1-11, 77-1-15, 77-1-17, 77-1-19, 77-1-21, 77-1-25, 77-1-27,
 3 77-1-29, 77-1-31, 77-1-33, 77-1-35, 77-1-37, 77-1-39, 77-1-41,
 4 77-1-43, 77-1-47 AND 77-1-49, MISSISSIPPI CODE OF 1972, WHICH
 5 CREATE THE PUBLIC SERVICE COMMISSION AND PRESCRIBE ITS POWERS AND
 6 DUTIES; TO AMEND SECTION 77-1-51, MISSISSIPPI CODE OF 1972, TO
 7 EXTEND THE DATE OF REPEAL ON THOSE SECTIONS; TO AMEND SECTION
 8 77-1-55, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF REPEAL ON
 9 THIS SECTION WHICH AUTHORIZES THE COMMISSION AND THE PUBLIC
 10 UTILITIES STAFF TO HIRE ATTORNEYS AND CONSULTANTS FOR CERTAIN
 11 PROCEEDINGS; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** Section 77-1-1, Mississippi Code of 1972, is
 14 reenacted as follows:

15 77-1-1. A public service commission, hereinafter referred to
 16 in this chapter as the commission, is hereby created, consisting
 17 of three (3) members, one (1) to be elected from each of the three
 18 (3) Supreme Court districts by the qualified electors of such
 19 district. Elections for such officers shall be held in the
 20 general election in November 1959, and every four (4) years
 21 thereafter, and the terms of office of the three (3) commissioners



22 elected at the general election in November 1959 shall expire on
23 December 31, 1963.

24 The commissioners shall each receive a yearly salary fixed by
25 the Legislature, payable monthly.

26 The commissioners shall each possess the qualifications
27 prescribed for the Secretary of State. The commissioners shall
28 not operate, own any stock in, or be in the employment of any
29 common or contract carrier by motor vehicle, telephone company,
30 gas or electric utility company, or any other public utility that
31 shall come under their jurisdiction or supervision.

32 **SECTION 2.** Section 77-1-3, Mississippi Code of 1972, is
33 reenacted as follows:

34 77-1-3. The commission shall have a seal, having around the
35 margin the words "Mississippi Public Service Commission," and in
36 the center such device as it may select. The acts of the
37 commission shall be authenticated by its seal.

38 **SECTION 3.** Section 77-1-5, Mississippi Code of 1972, is
39 reenacted as follows:

40 77-1-5. The commission shall keep an office in the City of
41 Jackson, which shall be kept open Monday through Friday of each
42 week for eight (8) hours each day. The commission shall meet at
43 its office on the first Tuesday of each month and at such other
44 times and places as its duties may require. The commission may
45 sit from day to day and from time to time, and any meeting may be
46 pretermitted not exceeding two (2) in any year.



47 The members of the commission shall devote their entire time
48 to the performance of their official duties on every business day,
49 except on the legal holidays enumerated in Section 3-3-7,
50 Mississippi Code of 1972. However, official acts of the
51 commission done on legal holidays shall be valid.

52 The commission shall keep regular minutes of its proceedings,
53 which shall be a public record, and all orders, findings and acts
54 of the commission shall be entered on the minutes.

55 Two (2) members of the commission shall be a quorum.

56 **SECTION 4.** Section 77-1-6, Mississippi Code of 1972, is
57 reenacted as follows:

58 77-1-6. There is hereby established in the State Treasury a
59 special fund to be known as the "Public Service Commission
60 Regulation Fund." Such fund shall be the sole fund of the
61 commission for all monies collected and deposited to the credit of
62 or appropriated to the commission. The fund shall be administered
63 as provided in this title and shall be audited annually by the
64 State Auditor.

65 **SECTION 5.** Section 77-1-11, Mississippi Code of 1972, is
66 reenacted as follows:

67 77-1-11. (1) It shall be unlawful for any public service
68 commissioner, any candidate for public service commissioner, or
69 any employee of the Public Service Commission or Public Utilities
70 Staff to knowingly accept any gift, pass, money, campaign
71 contribution or any emolument or other pecuniary benefit



72 whatsoever, either directly or indirectly, from any person
73 interested as owner, agent or representative, or from any person
74 acting in any respect for such owner, agent or representative of
75 any common or contract carrier by motor vehicle, telephone
76 company, gas or electric utility company, or any other public
77 utility that shall come under the jurisdiction or supervision of
78 the Public Service Commission. Any person found guilty of
79 violating the provisions of this subsection shall immediately
80 forfeit his or her office or position and shall be fined not less
81 than Five Thousand Dollars (\$5,000.00), imprisoned in the State
82 Penitentiary for not less than one (1) year, or both.

83 (2) It shall be unlawful for any person interested as owner,
84 agent or representative, or any person acting in any respect for
85 such owner, agent or representative of any common or contract
86 carrier by motor vehicle, telephone company, gas or electric
87 utility, or any other public utility that shall come under the
88 jurisdiction or supervision of the Public Service Commission to
89 offer any gift, pass, money, campaign contribution or any
90 emolument or other pecuniary benefit whatsoever to any public
91 service commissioner, any candidate for public service
92 commissioner or any employee of the Public Service Commission or
93 Public Utilities Staff. Any party found guilty of violating the
94 provisions of this subsection shall be fined not less than Five
95 Thousand Dollars (\$5,000.00), or imprisoned in the State
96 Penitentiary for not less than one (1) year, or both.



97 (3) For purposes of this section, the term "emolument" shall
98 include salary, donations, contributions, loans, stock tips,
99 vacations, trips, honorarium, directorships or consulting posts.
100 Expenses associated with social occasions afforded public servants
101 shall not be deemed a gift, emolument or other pecuniary benefit
102 as defined in Section 25-4-103(k), Mississippi Code of 1972.

103 (4) For purposes of this section, a person who is a member
104 of a water, gas, electric or other cooperative association
105 regulated by the Public Service Commission shall not, by virtue of
106 such membership, be deemed an owner, agent or representative of
107 such association unless such person is acting in any respect for
108 or as an owner, agent or representative of such association; nor
109 shall a person who owns less than one-half of one percent (1/2 of
110 1%) in stock, the value thereof not to exceed Ten Thousand Dollars
111 (\$10,000.00), of any public utility that is regulated by the
112 Public Service Commission, or of any holding company of such
113 public utility, by virtue of such ownership, be deemed an owner,
114 agent or representative of such public utility unless such person
115 is acting in any respect for or as an owner, agent or
116 representative of such public utility.

117 **SECTION 6.** Section 77-1-15, Mississippi Code of 1972, is
118 reenacted as follows:

119 77-1-15. (1) There shall be an executive secretary of the
120 commission, hereinafter referred to in this chapter as the
121 secretary, to be appointed by the commission, by and with the



122 advice and consent of the Senate, for the term of the
123 commissioners. The secretary must have the same qualifications as
124 the commissioners and shall be subject to the same
125 disqualifications and to like penalties, except that he shall not
126 be liable to impeachment. He shall receive a salary fixed by the
127 Legislature. He shall take the oath of office and shall be
128 removable at the pleasure of the commission, which may fill any
129 vacancy until the Senate confirms a successor. The secretary
130 shall make bond as provided for other state officers, in the sum
131 of Ten Thousand Dollars (\$10,000.00), conditioned upon the
132 faithful performance of the duties of his office.

133 (2) The secretary shall collect all fees and penalties
134 collected by or paid to the commission, and shall cover the same
135 into the State Treasury; and all fees and penalties collected
136 under the Mississippi Motor Carrier Regulatory Law of 1938 shall
137 be covered into the Public Service Commission Regulation Fund.

138 (3) The secretary of the commission shall be the custodian
139 of all records, documents, and the seal of the commission. He
140 shall issue all citations, subpoenas and other rightful orders and
141 documents, and perform all other duties usually required of such
142 officer, and as required by the commission.

143 (4) It shall be the duty and responsibility of the secretary
144 to supervise and manage the offices and staff of the Public
145 Service Commission and formulate written policies and procedures
146 for the effective and efficient operation of the office and



147 present these policies and procedures to the board for
148 promulgation.

149 **SECTION 7.** Section 77-1-17, Mississippi Code of 1972, is
150 reenacted as follows:

151 77-1-17. The commission is hereby authorized to employ for
152 the term of the commissioners a competent rate expert at a salary
153 fixed by the commission, and an assistant rate expert at a salary
154 fixed by the commission, for the collection of data and evidence
155 for the use of the state in protecting the interest of the state
156 involving duties and obligations of all common carriers, all
157 common carriers by motor vehicle, all restricted common carriers
158 by motor vehicle, and all contract carriers by motor vehicle, and
159 for the establishment of proof in litigation now pending or which
160 may hereafter be instituted.

161 The rate expert and his assistant shall make all needed
162 investigations affecting rates and rate making and shall perform
163 such other duties as the commission may find necessary for them to
164 do in the interest of the state.

165 Said duties shall also include the checking and investigating
166 of the filing of rate schedules with the commission, and making of
167 reports to the commission respecting tariffs filed by any of the
168 above-mentioned carriers with the commission involving the
169 increase of any rates for movements within the State of
170 Mississippi, and the general checking and reports to the
171 commission affecting any rates increased from points without the



172 State of Mississippi to points within the State of Mississippi,
173 and from points in the State of Mississippi to points without the
174 State of Mississippi. Said rate experts may be discharged by the
175 commission for incompetency or other good cause, but they shall
176 have notice and an opportunity to be heard in respect to any
177 charge for removal.

178 **SECTION 8.** Section 77-1-19, Mississippi Code of 1972, is
179 reenacted as follows:

180 77-1-19. The commission is authorized to employ the
181 following additional employees to carry out and enforce the
182 provisions of the Motor Carrier Regulatory Law of 1938:

183 (a) An assistant secretary and two (2)
184 stenographer-clerks;

185 (b) One (1) combined bookkeeper and stenographer;

186 (c) One (1) stenographer competent to serve as a
187 reporter of evidence taken before the commission; and

188 (d) Twelve (12) additional employees, which includes
189 seven (7) employees to be transferred from the utility department
190 to the motor carrier department to perform the duties of the
191 commission imposed upon it by the provisions of said Motor Carrier
192 Regulatory Law.

193 **SECTION 9.** Section 77-1-21, Mississippi Code of 1972, is
194 reenacted as follows:

195 77-1-21. (1) For the purpose of enforcing the provisions of
196 the Mississippi Motor Carrier Regulatory Law of 1938, the



197 Mississippi Department of Transportation is authorized to employ,
198 in addition to personnel already employed by the department, one
199 (1) chief enforcement officer and twenty-one (21) inspectors, who
200 shall be under the management of the department. The chief
201 enforcement officer and the inspectors shall devote their full
202 time to the performance of their duties and shall take an oath
203 faithfully to perform the duties of their position. The
204 department shall require bonds to be carried on such employees as
205 the department may deem necessary, the cost thereof to be paid by
206 the department. The chief enforcement officer and inspectors
207 shall be qualified by experience and training in law enforcement
208 or investigative work, and shall attend and satisfactorily
209 complete an appropriate course of instruction established by the
210 Commissioner of Public Safety at the Law Enforcement Officers
211 Training Academy. The chief enforcement officer and the
212 inspectors referred to in this section shall be selected after an
213 examination as to physical and mental fitness. Such employees
214 shall be citizens of the United States and the State of
215 Mississippi, and of good moral character. All such members of
216 staff shall be appointed by the Mississippi Department of
217 Transportation and shall be subject to removal at any time by the
218 department.

219 (2) The Public Service Commission shall transfer all
220 employees, equipment, inventory and resources of the commission
221 employed and used to enforce the Motor Carrier Regulatory Law of



222 1938 to the Mississippi Department of Transportation on July 1,
223 2004. The transfer of personnel shall be commensurate with the
224 number and classification of positions allocated to that law
225 enforcement. The transfer also shall include direct support,
226 clerical, data processing and communications positions allocated
227 to that law enforcement.

228 (3) The Public Service Commission shall transfer to the
229 Mississippi Department of Transportation each year the amount of
230 funds necessary to support the law enforcement functions being
231 performed for the commission by the department, as specified in
232 the appropriation bill for the Public Service Commission.

233 (4) Any reference in any statute, rule or regulation to law
234 enforcement duties being performed by the Public Service
235 Commission shall be construed to mean law enforcement duties being
236 performed for the commission by the Mississippi Department of
237 Transportation.

238 **SECTION 10.** Section 77-1-25, Mississippi Code of 1972, is
239 reenacted as follows:

240 77-1-25. No member of the staff of the commission, or any
241 other person, shall use uniforms, material, or equipment of the
242 commission for private or political purposes. Members of the
243 staff of the commission may be candidates for political office but
244 must take a leave of absence to do so. Members of the staff of
245 the commission may take part in political campaigns other than
246 campaigns for Public Service Commission but may not solicit or



247 receive campaign contributions from regulated utilities. Anyone
248 violating the provisions of this section shall be guilty of a
249 misdemeanor and, upon conviction, shall be punished as provided by
250 law and shall be dismissed from the staff of the commission.

251 **SECTION 11.** Section 77-1-27, Mississippi Code of 1972, is
252 reenacted as follows:

253 77-1-27. All commission employees provided for in this
254 chapter, and the reasonable and necessary expenses of the
255 administration of the duties imposed on the commission by the
256 Motor Carrier Regulatory Law of 1938, shall be paid out of the
257 appropriations made to defray the expenses of the commission, upon
258 requisitions and warrants in the same manner provided by law for
259 the disbursements of appropriations for the commission. An
260 itemized account shall be kept of all receipts and expenditures
261 and shall be reported to the Legislature by the commission.

262 **SECTION 12.** Section 77-1-29, Mississippi Code of 1972, is
263 reenacted as follows:

264 77-1-29. On or before the twentieth day of each calendar
265 month, the commission shall pay into the State Treasury to the
266 account of the "Public Service Commission Regulation Fund" all
267 monies collected by it during the preceding calendar month,
268 showing from whom collected, when collected and for what purposes
269 collected. All disbursements made by the commission or from the
270 regulation fund for any purposes, other than for salaries provided
271 by law, shall be supported by a detailed and itemized statement



272 approved by the commission for commission disbursements. The
273 commission shall not expend funds from the "Public Service
274 Commission Regulation Fund" to employ personnel whose services
275 would duplicate services provided by any employee of the Public
276 Utilities Staff.

277 **SECTION 13.** Section 77-1-31, Mississippi Code of 1972, is
278 reenacted as follows:

279 77-1-31. The commission shall keep a docket of petitions and
280 complaints, which shall be entered in regular order. The docket
281 shall be called at each regular meeting of the board, and the
282 cases thereon disposed of, or, if necessary, continued until the
283 next meeting.

284 **SECTION 14.** Section 77-1-33, Mississippi Code of 1972, is
285 reenacted as follows:

286 77-1-33. In any matter of inquiry pending before the
287 commission or any member thereof, subpoenas for witnesses, and
288 subpoenas duces tecum, may be issued by the secretary, under seal,
289 or by any member without the seal, and shall be executed and
290 returned by any sheriff, constable, or marshal, under the like
291 penalties of law for failure to execute and return the process of
292 the circuit court. If any person duly summoned to appear and
293 testify before the commission, or before any one or more of the
294 commissioners, shall fail or refuse to appear and testify, or to
295 bring and produce, as commanded, any book, paper, or document,
296 without a lawful excuse, or shall refuse to answer any proper



297 question propounded to him by the commission or any of the
298 commissioners, or if any person shall obstruct the commission, or
299 one or more of the commissioners in the discharge of duty, or
300 shall conduct himself in a rude, disrespectful, or disorderly
301 manner before the commission deliberating in the discharge of
302 duty, such witness or person shall be guilty of a misdemeanor,
303 and, upon conviction, shall be fined not more than One Thousand
304 Dollars (\$1,000.00), or be imprisoned in the county jail for a
305 period not exceeding six (6) months, or both.

306 **SECTION 15.** Section 77-1-35, Mississippi Code of 1972, is
307 reenacted as follows:

308 77-1-35. The several members of the commission and the
309 secretary may, in the discharge of their duties, administer oaths
310 and take affidavits. The commission and each member thereof may
311 examine witnesses under oath in all matters coming before them.
312 If any person shall testify falsely, or make any false affidavit
313 or oath before the commission, or before any of the commissioners,
314 or before any officer, to any matter coming before the commission,
315 he shall be guilty of perjury, and, upon conviction, shall be
316 punished according to law.

317 **SECTION 16.** Section 77-1-37, Mississippi Code of 1972, is
318 reenacted as follows:

319 77-1-37. Witnesses summoned to appear before the commission
320 shall be entitled to the same per diem and mileage as witnesses
321 attending the circuit court. Witnesses summoned by the commission



322 on its behalf shall be paid as are other expenditures of the
323 commission, upon the certificate of the commission showing the
324 amount to which such witness may be entitled. Witnesses summoned
325 for any carrier shall be paid by it.

326 **SECTION 17.** Section 77-1-39, Mississippi Code of 1972, is
327 reenacted as follows:

328 77-1-39. In all cases where the testimony of witnesses is
329 given orally before the commission any interested party or the
330 commission shall have the right to have said testimony taken down
331 and transcribed by a stenographer or court reporter, who is not an
332 employee of the commission, to be agreed upon by the parties or
333 appointed by the commission. The stenographer or court reporter
334 so employed shall be duly sworn and his or her certificate that
335 the transcript of such evidence is correct together with the
336 official certificate of any one (1) of the commissioners that he
337 has read the same and that it is in his opinion correct shall
338 entitle such transcript or a certified copy thereof to be received
339 in evidence on any appeal or in any court in this state subject
340 only to any objection that the same is not relevant or material.
341 The stenographer or court reporter shall be paid in accordance
342 with the provisions of Section 9-13-33. The commission shall have
343 the right to require any party demanding an official stenographer
344 to guarantee or prepay the costs thereof in all proper cases.

345 **SECTION 18.** Section 77-1-41, Mississippi Code of 1972, is
346 reenacted as follows:



347 77-1-41. All findings of the commission and the
348 determination of every matter by it shall be made in writing and
349 placed upon its minutes. Proof thereof shall be made by a copy of
350 the same duly certified by the secretary under the seal of the
351 commission. Whenever any matter has been determined by the
352 commission, in the course of any proceeding before it the fact of
353 such determination, duly certified, shall be received in all
354 courts and by every officer in civil cases as prima facie evidence
355 that such determination was right and proper. The record of the
356 proceedings of the commission shall be deemed a public record, and
357 shall at all reasonable times be subject to the inspection of the
358 public.

359 **SECTION 19.** Section 77-1-43, Mississippi Code of 1972, is
360 reenacted as follows:

361 77-1-43. (1) The commission may apply to the circuit or
362 chancery court, by proper proceeding, for aid in the enforcement
363 of obedience to its process, and to compel compliance with the law
364 and its lawful orders, decisions, and determinations. Said courts
365 shall have jurisdiction to grant aid and relief in such cases,
366 subject to the right of appeal to the Supreme Court by the party
367 aggrieved. The Attorney General, or district attorney in his
368 district, shall institute such proceedings in the name of the
369 commission.

370 (2) Any action for violation of the law, or for the
371 violation of any lawful rule, regulation or order of the



372 commission may be instituted by the commission or by the Attorney
373 General in any court of competent jurisdiction.

374 (3) The remedies given by this chapter against all carriers
375 under the supervision of the commission, are cumulative to those
376 now in existence by law.

377 **SECTION 20.** Section 77-1-47, Mississippi Code of 1972, is
378 reenacted as follows:

379 77-1-47. Appeals from any final finding, order or judgment
380 of the commission shall be taken and perfected by the filing of a
381 bond in the sum of Five Hundred Dollars (\$500.00) with two (2)
382 sureties, or with a surety company qualified to do business in
383 Mississippi as the surety, conditioned to pay the cost of such
384 appeal. Said bond shall be approved by the chairman or secretary
385 of the commission, or by the judge of the court to which such
386 appeal is taken in case the chairman or secretary of the
387 commission refuses to approve a proper bond tendered to them
388 within the time limited for taking appeals. The commission may
389 grant a supersedeas bond on any appeal, in such penalty and with
390 such surety thereon as it may deem sufficient, and may, during the
391 pendency of any appeal, at any time, require the increase of any
392 such supersedeas bond or additional securities thereon. The judge
393 of the Circuit Court of Hinds County may on petition therefor by
394 any party entitled to an appeal, presented to him within six (6)
395 months of the date of the final finding, order, or judgment of the
396 commission appealed from, award a writ of supersedeas to any such



397 final finding, order, or judgment of the commission, upon the
398 filing of a supersedeas bond in an amount to be fixed by said
399 judge. All appeal bonds for the payment of costs, and all
400 supersedeas bonds, shall be made payable to the state and may be
401 enforced in the name of the state by motion or other legal
402 proceedings or remedy in any circuit court of this state having
403 jurisdiction of a motion or action on such bond, and the process
404 and proceedings thereon shall be as provided by law upon bonds of
405 like character required and taken by any court of this state.
406 Such circuit court may render and enter like judgments upon such
407 bonds as may, by law, be rendered and entered upon bonds of like
408 character, and process of execution shall issue upon such
409 judgments, and may be levied and executed as provided by law in
410 other cases.

411 **SECTION 21.** Section 77-1-49, Mississippi Code of 1972, is
412 reenacted as follows:

413 77-1-49. The commission shall make a report every year to
414 the Legislature of all its acts and doings for the preceding
415 fiscal year.

416 **SECTION 22.** Section 77-1-51, Mississippi Code of 1972, is
417 amended as follows:

418 77-1-51. Sections 77-1-1 through 77-1-49, Mississippi Code
419 of 1972, which create the Public Service Commission and prescribe
420 its powers and duties, shall stand repealed as of December
421 31, * * * 2019.



422 **SECTION 23.** Section 77-1-55, Mississippi Code of 1972, is
423 amended as follows:

424 77-1-55. (1) The Public Service Commission, with the aid
425 and the assistance of the Public Utilities Staff, shall have the
426 power to monitor, investigate, and seek relief in any appropriate
427 federal forum from all existing or proposed interstate rates,
428 charges, allocations and classifications, and all rules and
429 practices in relation thereto promulgated and prescribed by or for
430 any public utility as defined in Section 77-3-3(d) (i).

431 (2) The Public Service Commission, with the aid and the
432 assistance of the Public Utilities Staff, may seek relief from any
433 proposed or final decision, order, regulation, rule or law that
434 has an impact on any existing or proposed interstate rate, charge,
435 allocation or classification.

436 (3) For the purpose of this section, the Public Service
437 Commission and the Executive Director of the Public Utilities
438 Staff may each enter into professional services contracts with one
439 or more attorneys or consultants from a competent, qualified and
440 independent firm as may be required by the commission or the
441 executive director. Costs associated with the professional
442 service contracts shall not exceed One Million Five Hundred
443 Thousand Dollars (\$1,500,000.00) for each agency with respect to
444 each rate regulated affected utility in any twelve-month period.
445 The consultants or counsel shall submit periodically, but no less
446 frequently than once each calendar quarter, to the executive



447 director or the commission, as applicable, for approval of
448 payment, itemized bills detailing the work performed. The
449 executive director or the chairman of the commission, as
450 applicable, shall requisition the applicable public utility to
451 make the requisite payments to such consultants. The commission
452 shall allow the utility to recover both the total costs the
453 utility incurred under this section and the carrying charges for
454 those costs through a rate rider established to recover the costs
455 incurred and carrying charges incurred. Such rider shall include
456 a true-up provision to ensure actual recovery of costs paid or
457 otherwise incurred by the utility.

458 (4) This section shall stand repealed from and after July
459 1, * * *2019.

460 **SECTION 24.** This act shall take effect and be in force from
461 and after July 1, 2016.

