

By: Senator(s) Carmichael

To: Accountability,  
Efficiency, Transparency

SENATE BILL NO. 2020

1 AN ACT TO AMEND SECTION 77-1-1, MISSISSIPPI CODE OF 1972, TO  
 2 INCREASE THE MEMBERSHIP OF THE PUBLIC SERVICE COMMISSION BEGINNING  
 3 ON JANUARY 1, 2020; TO AMEND SECTION 77-1-5, MISSISSIPPI CODE OF  
 4 1972, TO PROVIDE THE NUMBER OF MEMBERS NECESSARY FOR A QUORUM OF  
 5 THE COMMISSION; TO AMEND SECTION 77-2-1, MISSISSIPPI CODE OF 1972,  
 6 TO PROVIDE THAT THE PUBLIC UTILITIES STAFF SHALL BE UNDER THE  
 7 SUPERVISION OF THE PUBLIC SERVICE COMMISSION; TO AMEND SECTION  
 8 77-2-3, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE PUBLIC  
 9 UTILITIES STAFF SHALL CONDUCT INVESTIGATIONS AND PERFORM CERTAIN  
 10 OTHER FUNCTIONS AS DIRECTED BY THE COMMISSION; TO AMEND SECTION  
 11 77-2-7, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE EXECUTIVE  
 12 DIRECTOR OF THE STAFF SHALL BE APPOINTED BY THE COMMISSION AND  
 13 SHALL SERVE AT THE WILL AND PLEASURE OF THE COMMISSION; TO AMEND  
 14 SECTION 77-2-9, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT IN ORDER  
 15 FOR CERTAIN DUTIES TO BE CARRIED OUT BY THE EXECUTIVE DIRECTOR,  
 16 THE COMMISSION MUST PROVIDE ITS ADVICE AND CONSENT; AND FOR  
 17 RELATED PURPOSES.

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

19 **SECTION 1.** Section 77-1-1, Mississippi Code of 1972, is  
 20 amended as follows:

21 77-1-1. A public service commission, hereinafter referred to  
 22 in this chapter as the commission, is hereby created \* \* \*. The  
 23 initial members of the commission shall consist of three (3)  
 24 members, one (1) to be elected from each of the three (3) Supreme  
 25 Court districts by the qualified electors of such district.



26 Beginning on January 1, 2020, the commission shall be  
27 reconstituted to consist of five (5) members, one (1) member to be  
28 elected from each of the four (4) congressional districts, and one  
29 (1) member to be appointed from the state at large by the Governor  
30 with the advice and consent of the Senate. Elections for \* \* \*  
31 the elected members of the reconstituted commission shall be held  
32 in the general election in November \* \* \* 2019, and every four (4)  
33 years thereafter, and the terms of office of the \* \* \*  
34 commissioners elected at the general election in November \* \* \*  
35 2019 shall expire on December 31, \* \* \* 2023. The member of the  
36 commission appointed by the Governor shall be appointed for a term  
37 of four (4) years and until his successor is appointed, such  
38 initial term to commence on January 1, 2020, and expiring on  
39 December 31, 2023.

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

42 The commissioners shall each possess the qualifications  
43 prescribed for the Secretary of State. The commissioners shall  
44 not operate, own any stock in, or be in the employment of any  
45 common or contract carrier by motor vehicle, telephone company,  
46 gas or electric utility company, or any other public utility that  
47 shall come under their jurisdiction or supervision.

48 **SECTION 2.** Section 77-1-5, Mississippi Code of 1972, is  
49 amended as follows:



50           77-1-5. The commission shall keep an office in the City of  
51 Jackson, which shall be kept open Monday through Friday of each  
52 week for eight (8) hours each day. The commission shall meet at  
53 its office on the first Tuesday of each month and at such other  
54 times and places as its duties may require. The commission may  
55 sit from day to day and from time to time, and any meeting may be  
56 pretermitted not exceeding two (2) in any year.

57           The members of the commission shall devote their entire time  
58 to the performance of their official duties on every business day,  
59 except on the legal holidays enumerated in Section 3-3-7,  
60 Mississippi Code of 1972. However, official acts of the  
61 commission done on legal holidays shall be valid.

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

65           Two (2) members of the commission shall be a quorum; however,  
66 beginning on January 1, 2020, three (3) members of the commission  
67 shall be a quorum.

68           **SECTION 3.** Section 77-2-1, Mississippi Code of 1972, is  
69 amended as follows:

70           77-2-1. There is hereby established a Public Utilities  
71 Staff, which shall be \* \* \* under the authority and supervision of  
72 the Public Service Commission. \* \* \* The staff shall consist of  
73 the personnel positions of the executive director, the economic  
74 and planning division, legal division, engineering division and



75 accounting division with a State Personnel Board organizational  
76 code of twenty thousand (20,000) or larger which were formerly  
77 authorized and appropriated under the provisions of Section  
78 77-3-8, Mississippi Code of 1972. The \* \* \* commission shall  
79 establish the organizational structure of the staff, and shall  
80 have the authority to create units as deemed appropriate to carry  
81 out the responsibilities of the staff. The Public Utilities Staff  
82 shall represent the broad interests of the State of Mississippi by  
83 balancing the respective concerns of the residential, commercial  
84 or industrial ratepayers, and the state and its agencies and  
85 departments, and the public utilities. The staff shall consist of  
86 a sufficient number of professional, administrative, technical,  
87 clerical and other personnel as may be necessary for the staff to  
88 perform its duties and responsibilities as hereinafter provided.  
89 All such personnel shall be competitively appointed by the  
90 executive director, subject to the approval of the commission, and  
91 shall be dismissed only for cause in accordance with the rules and  
92 regulations of the State Personnel Board. All equipment,  
93 supplies, records and any funds appropriated by the Legislature to  
94 the Public Service Commission for and on behalf of the Public  
95 Utilities Staff shall be transferred to such staff on September 1,  
96 1990. The Public Utilities Staff shall be funded separately from  
97 the Mississippi Public Service Commission. Any appropriated funds  
98 to the Public Utilities Staff shall be maintained in an account



99 separate from any funds of the Public Service Commission and shall  
100 never be commingled therewith.

101 Notwithstanding any provision of this chapter to the  
102 contrary, the personnel positions of the data processing division  
103 and the gas pipeline safety division of the Public Utilities Staff  
104 shall be the Public Service Commission staff positions authorized  
105 under Section 77-3-8, and shall be under the control and  
106 supervision of the Public Service Commission from and after March  
107 15, 1991. However, the Public Service Commission staff shall  
108 continue to provide at no cost administrative support in the  
109 nature of data processing and bookkeeping to the Public Utilities  
110 Staff in order to avoid duplication of services.

111 **SECTION 4.** Section 77-2-3, Mississippi Code of 1972, is  
112 amended as follows:

113 77-2-3. (1) The Public Utilities Staff created pursuant to  
114 Section 77-2-1 and the Public Service Commission and commission  
115 staff shall have and possess all of the rights and powers to  
116 perform all of the duties vested by this chapter.

117 (2) The functions of the commission, with the aid and  
118 assistance of its staff and the Public Utilities Staff, shall be  
119 regulatory and quasi-judicial in nature. It may make such  
120 investigations and determinations, hold such hearings, prescribe  
121 such rules and issue such orders with respect to the control and  
122 conduct of the businesses coming within its jurisdiction. It may  
123 adjudicate all proceedings brought before it in which the



124 violation of any law or rule administered by the commission is  
125 alleged.

126 (3) The primary functions of the Public Utilities Staff  
127 shall be investigative and advisory in nature. The Public  
128 Utilities Staff shall conduct investigations and perform other  
129 functions relating to the regulation of public utilities as  
130 ordered and directed by the commission.

131 **SECTION 5.** Section 77-2-7, Mississippi Code of 1972, is  
132 amended as follows:

133 77-2-7. (1) An executive director of the Public Utilities  
134 Staff shall be appointed \* \* \* by the Public Service  
135 Commission \* \* \*. The executive director shall serve at the will  
136 and pleasure of the \* \* \* commission.

137 (2) The executive director of the Public Utilities Staff  
138 shall hold at least a bachelors degree and shall have extensive  
139 managerial experience with a thorough knowledge of public utility  
140 economics and the principles of utility service and rate  
141 construction. The executive director of the Public Utilities  
142 Staff shall possess the ability to analyze quantitative and  
143 qualitative data and to develop and adjust regulatory strategies  
144 or policies to attain commission objectives. The salary of the  
145 executive director shall be set by the Personnel Board and shall  
146 be such that it is comparable to salaries of those holding similar  
147 positions in other state and federal agencies and commensurate  
148 with the duties and responsibilities imposed on this official



149 position which affects the broad interests of the State of  
150 Mississippi. Nothing herein shall be construed to prevent  
151 reappointment of the executive director for consecutive terms.

152 **SECTION 6.** Section 77-2-9, Mississippi Code of 1972, is  
153 amended as follows:

154 77-2-9. (1) The executive director shall have general  
155 charge of the operations and administration of the Public  
156 Utilities Staff. It shall be the duty and responsibility of the  
157 executive director to supervise and manage the offices and  
158 personnel on the Public Utilities Staff and formulate written  
159 policies and procedures for the effective and efficient operation  
160 thereof, subject to the approval of the commission. The executive  
161 director shall be responsible for hiring persons on the staff who  
162 meet established qualifications for comparable positions of duty  
163 and responsibility, subject to the approval of the commission.  
164 The Public Utilities Staff as formerly created in Section 77-3-8,  
165 Mississippi Code of 1972, which consists of the Economic and  
166 Planning Division, Legal Division, Engineering Division,  
167 Accounting Division and Administrative Services Division, and has  
168 a State Personnel Board organizational code of twenty thousand  
169 (20,000) or larger, is abolished from and after August 31, 1990.  
170 All such former employees shall be eligible to be rehired by the  
171 executive director for positions on the Public Utilities Staff  
172 created pursuant to Section 77-2-1. Such former employees shall  
173 not, by virtue of abolishing such staff, lose any vacation or sick



174 leave benefits previously accrued and, if rehired, shall continue  
175 vacation and sick leave as if they had not been terminated. For a  
176 period of one (1) year after July 1, 1990, the personnel actions  
177 of the Public Utilities Staff shall be exempt from State Personnel  
178 Board procedures in order to give the Public Utilities Staff  
179 flexibility in making an orderly, effective and timely transition  
180 to the mandated reorganization.

181 (2) The following personnel and members of the Public  
182 Utilities Staff shall be competitively appointed by the executive  
183 director, subject to the approval of the commission, and shall  
184 have at least the knowledge, skills and abilities set forth  
185 herein. These requirements shall not be waived, and possession  
186 thereof shall be certified by the State Personnel Board:

187 (a) A chief engineer who is a graduate licensed  
188 engineer and who has a thorough knowledge of engineering  
189 principles as applied to the design, construction, operation,  
190 maintenance and expansion of utility facilities and rate structure  
191 determination. The chief engineer shall possess a thorough  
192 knowledge of techniques and practices of public utility service  
193 and regulation and shall have the ability to evaluate same and to  
194 formulate accurate conclusions therefrom.

195 (b) A certified public accountant who possesses a  
196 thorough knowledge of standard accounting procedures, techniques  
197 and systems with specific reference to the utility industry. Such  
198 accountant shall be experienced in public utility accounting and





199 shall have a thorough knowledge of the financial and  
200 organizational structure of public utility companies to include  
201 knowledge of the methods by which financing of major additions and  
202 extensions to utility operations is acquired.

203 (c) A director of economics and planning who holds at  
204 least a bachelor's degree in economics and possesses a thorough  
205 knowledge of the principles and techniques of economic and  
206 financial research and statistical analysis. The director of  
207 economics and planning shall have a thorough knowledge of the  
208 sources of economic, financial and statistical information and the  
209 methods of utilizing these sources, as well as considerable  
210 knowledge of capital markets with specific reference to utility  
211 financing. This employee shall be experienced in conducting  
212 analyses of the utility industry, the economy, cost of money,  
213 availability and cost of fuel and energy and other related matters  
214 within the authority of the commission.

215 (d) Supportive technical personnel consisting of rate  
216 analysts, accountants, inspectors and statisticians as authorized  
217 and appropriated by the Legislature.

218 (e) A general counsel, who shall be a member of The  
219 Mississippi Bar, shall have practiced law for a minimum of five  
220 (5) years and who shall possess considerable knowledge of utility  
221 regulation generally and of the case law, statutory law and the  
222 common law relating thereto.



223 (3) It shall be the duty and responsibility of the Public  
224 Utilities Staff by and through the executive director to:

225 (a) In uncontested matters review, investigate and make  
226 appropriate written recommendations to the commission with respect  
227 to the reasonableness of rates charged or proposed to be charged  
228 by any public utility and with respect to the consistency of such  
229 rates with the public policy of assuring an energy supply adequate  
230 to protect the public health and safety and to promote the general  
231 welfare;

232 (b) Review, investigate and make appropriate written  
233 recommendations to the commission with respect to the service  
234 furnished or proposed to be furnished by any utility;

235 (c) When deemed necessary by the \* \* \* commission, in  
236 the broad public interest of the State of Mississippi, the using  
237 and consuming public, and the public utilities, make written  
238 recommendations and reports to the commission regarding all  
239 commission proceedings affecting the rates or service of any  
240 public utility;

241 (d) When deemed necessary by the \* \* \* commission, in  
242 the broad public interest of the State of Mississippi, the using  
243 and consuming public, and the public utilities, \* \* \* initiate  
244 proceedings to review, investigate and take appropriate action  
245 with respect to the rates or service of public utilities \* \* \*;

246 (e) When deemed necessary by the \* \* \* commission, in  
247 the broad public interest of the State of Mississippi, the using



248 and consuming public, and the public utilities, make written  
249 recommendations and reports to the commission regarding all  
250 certificate applications filed and provide assistance to the  
251 commission in making the analysis and plans required;

252 (f) When deemed necessary by the \* \* \* commission, in  
253 the broad public interest of the State of Mississippi, the using  
254 and consuming public, and the public utilities, make written  
255 recommendations and reports to the commission regarding all  
256 proceedings wherein any public utility proposes to reduce or  
257 abandon service to the public;

258 (g) When deemed necessary by the commission, make  
259 studies with respect to standards, regulations, practices or  
260 service of any public utility; however, the Public Utilities Staff  
261 shall have no duty, responsibility or authority with respect to  
262 the enforcement of natural gas pipeline safety law, or the federal  
263 railroad safety laws, rules or regulations;

264 (h) When deemed necessary by the \* \* \* commission, in  
265 the broad public interest of the State of Mississippi, the using  
266 and consuming public, and the public utilities, make written  
267 recommendations and reports to the commission regarding all  
268 commission proceedings with respect to transfers of franchises,  
269 mergers, consolidation and combination of public utilities;

270 (i) When deemed necessary by the \* \* \* commission, in  
271 the broad public interest of the State of Mississippi, the using  
272 and consuming public and the public utilities, review and



273 investigate contracts of public utilities with affiliates or  
274 subsidiaries;

275 (j) When deemed necessary by the \* \* \* commission, in  
276 the broad public interest of the State of Mississippi, the using  
277 and consuming public, and the public utilities, advise the  
278 commission with respect to regulations and transactions;

279 (k) When deemed necessary by the \* \* \* commission, in  
280 the broad public interest of the State of Mississippi, the using  
281 and consuming public and the public utilities, review and make  
282 recommendations to the commission on all miscellaneous uncontested  
283 filings;

284 (l) When deemed necessary by the commission, advise the  
285 Public Service Commission in writing as to the broad public  
286 interest of the State of Mississippi, the using and consuming  
287 public, and the public utilities in all major rate cases and  
288 automatic adjustment clauses;

289 (m) When deemed necessary by the \* \* \* commission, in  
290 the broad public interest of the State of Mississippi, the using  
291 and consuming public, and the public utilities, review and  
292 investigate the justness and reasonableness, to both the public  
293 and the public utility, of rates charged or proposed to be charged  
294 by any public utility, the rates of which are subject to  
295 regulation under the provisions of this chapter; and



296 (n) Accumulate evidence and other information from  
297 public utilities and other sources as required or as may be  
298 requested by the Public Service Commission.

299 (4) The Executive Director of the Public Utilities Staff  
300 shall employ the resources of the staff to furnish to the  
301 commission, in a timely and expeditious manner, such information  
302 and reports or conduct such investigations and provide such other  
303 assistance as may be required in order to enforce the laws  
304 providing for the regulation of public utilities.

305 (5) All written recommendations and reports provided to the  
306 Public Service Commission from the Public Utilities Staff shall  
307 bear the signature of the executive director, who shall maintain a  
308 record thereof, including the date such recommendation or report  
309 was submitted to the commission.

310 (6) In no event shall the duties and responsibilities of the  
311 Public Utilities Staff be exercised with regard to matters not  
312 within the jurisdiction and powers of the Public Service  
313 Commission.

314 (7) The executive director shall not carry out any of the  
315 duties in this chapter without the advice and consent of the  
316 Public Service Commission.

317 **SECTION 7.** This act shall take effect and be in force from  
318 and after July 1, 2019.

