

By: Representative Shanks

To: Public Utilities

HOUSE BILL NO. 752

1 AN ACT TO REENACT SECTIONS 77-1-1 THROUGH 77-1-6, 77-1-11,
 2 77-1-15, 77-1-25 THROUGH 77-1-43, 77-1-47 AND 77-1-49, MISSISSIPPI
 3 CODE OF 1972, WHICH CREATE THE PUBLIC SERVICE COMMISSION AND
 4 PRESCRIBE ITS POWERS AND DUTIES; TO BRING FORWARD SECTION 77-1-53,
 5 MISSISSIPPI CODE OF 1972, WHICH ESTABLISHES THE PROCESS FOR
 6 INSTITUTING AND CONDUCTING LEGAL PROCEEDINGS FOR THE ENFORCEMENT
 7 OF STATUTES AND REGULATIONS ADMINISTERED BY THE COMMISSION AND
 8 WHICH IS BEING ADDED TO THE REPEALER SECTION, FOR PURPOSES OF
 9 POSSIBLE AMENDMENT; TO AMEND SECTION 77-1-55, MISSISSIPPI CODE OF
 10 1972, TO DELETE THE REPEALER ON THE STATUTE AUTHORIZING THE
 11 COMMISSION AND PUBLIC UTILITIES STAFF TO HIRE ATTORNEYS AND
 12 CONSULTANTS FOR CERTAIN PROCEEDINGS; TO AMEND SECTION 77-1-51,
 13 MISSISSIPPI CODE OF 1972, TO INCLUDE SECTIONS 77-1-53 AND 77-1-55,
 14 MISSISSIPPI CODE OF 1972, IN THE SECTION PROVIDING FOR THE
 15 AUTOMATIC REPEAL OF THOSE STATUTES CREATING THE PUBLIC SERVICE
 16 COMMISSION AND PRESCRIBING ITS POWERS AND DUTIES AND TO EXTEND THE
 17 DATE OF THE REPEALER ON THOSE STATUTES; AND FOR 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 reenacted as follows:

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



26 general election in November 1959, and every four (4) years
27 thereafter, and the terms of office of the three (3) commissioners
28 elected at the general election in November 1959 shall expire on
29 December 31, 1963.

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

32 The commissioners shall each possess the qualifications
33 prescribed for the Secretary of State. The commissioners shall
34 not operate, own any stock in, or be in the employment of any
35 telephone company, gas or electric utility company, or any other
36 public utility that shall come under their jurisdiction or
37 supervision.

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

40 77-1-3. The commission shall have a seal, having around the
41 margin the words "Mississippi Public Service Commission," and in
42 the center such device as it may select. The acts of the
43 commission shall be authenticated by its seal.

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

46 77-1-5. The commission shall keep an office in the City of
47 Jackson, which shall be kept open Monday through Friday of each
48 week for eight (8) hours each day. The commission shall meet at
49 its office on the first Tuesday of each month and at such other
50 times and places as its duties may require. The commission may



51 sit from day to day and from time to time, and any meeting may be
52 pretermitted not exceeding two (2) in any year.

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

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

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

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

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

71 From and after July 1, 2016, the expenses of this agency
72 shall be defrayed by appropriation from the State General Fund and
73 all user charges and fees authorized under this section shall be
74 deposited into the State General Fund as authorized by law and as
75 determined by the State Fiscal Officer.



76 From and after July 1, 2016, no state agency shall charge
77 another state agency a fee, assessment, rent or other charge for
78 services or resources received by authority of this section.

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

81 77-1-11. (1) It shall be unlawful for any public service
82 commissioner, any candidate for public service commissioner, or
83 any employee of the Public Service Commission or Public Utilities
84 Staff to knowingly accept any gift, pass, money, campaign
85 contribution or any emolument or other pecuniary benefit
86 whatsoever, either directly or indirectly, from any person
87 interested as owner, agent or representative, or from any person
88 acting in any respect for such owner, agent or representative of
89 any telephone company, gas or electric utility company, or any
90 other public utility that shall come under the jurisdiction or
91 supervision of the Public Service Commission. Any person found
92 guilty of violating the provisions of this subsection shall
93 immediately forfeit his or her office or position and shall be
94 fined not less than Five Thousand Dollars (\$5,000.00), imprisoned
95 in the State Penitentiary for not less than one (1) year, or both.

96 (2) It shall be unlawful for any person interested as owner,
97 agent or representative, or any person acting in any respect for
98 such owner, agent or representative of any telephone company, gas
99 or electric utility, or any other public utility that shall come
100 under the jurisdiction or supervision of the Public Service



101 Commission to offer any gift, pass, money, campaign contribution
102 or any emolument or other pecuniary benefit whatsoever to any
103 public service commissioner, any candidate for public service
104 commissioner or any employee of the Public Service Commission or
105 Public Utilities Staff. Any party found guilty of violating the
106 provisions of this subsection shall be fined not less than Five
107 Thousand Dollars (\$5,000.00), or imprisoned in the State
108 Penitentiary for not less than one (1) year, or both.

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

115 (4) For purposes of this section, a person who is a member
116 of a water, gas, electric or other cooperative association
117 regulated by the Public Service Commission shall not, by virtue of
118 such membership, be deemed an owner, agent or representative of
119 such association unless such person is acting in any respect for
120 or as an owner, agent or representative of such association; nor
121 shall a person who owns less than one-half of one percent (1/2 of
122 1%) in stock, the value thereof not to exceed Ten Thousand Dollars
123 (\$10,000.00), of any public utility that is regulated by the
124 Public Service Commission, or of any holding company of such
125 public utility, by virtue of such ownership, be deemed an owner,



126 agent or representative of such public utility unless such person
127 is acting in any respect for or as an owner, agent or
128 representative of such public utility.

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

131 77-1-15. (1) There shall be an executive secretary of the
132 commission, hereinafter referred to in this chapter as the
133 secretary, to be appointed by the commission, by and with the
134 advice and consent of the Senate, for the term of the
135 commissioners. The secretary must have the same qualifications as
136 the commissioners and shall be subject to the same
137 disqualifications and to like penalties, except that he shall not
138 be liable to impeachment. He shall receive a salary fixed by the
139 Legislature. He shall take the oath of office and shall be
140 removable at the pleasure of the commission, which may fill any
141 vacancy until the Senate confirms a successor. The secretary
142 shall make bond as provided for other state officers, in the sum
143 of Ten Thousand Dollars (\$10,000.00), conditioned upon the
144 faithful performance of the duties of his office.

145 (2) The secretary shall collect all fees and penalties
146 collected by or paid to the commission, and shall cover the same
147 into the State Treasury.

148 (3) The secretary of the commission shall be the custodian
149 of all records, documents, and the seal of the commission. He
150 shall issue all citations, subpoenas and other rightful orders and



151 documents, and perform all other duties usually required of such
152 officer, and as required by the commission.

153 (4) It shall be the duty and responsibility of the secretary
154 to supervise and manage the offices and staff of the Public
155 Service Commission and formulate written policies and procedures
156 for the effective and efficient operation of the office and
157 present these policies and procedures to the board for
158 promulgation.

159 (5) From and after July 1, 2016, the expenses of this agency
160 shall be defrayed by appropriation from the State General Fund and
161 all user charges and fees authorized under this section shall be
162 deposited into the State General Fund as authorized by law.

163 (6) From and after July 1, 2016, no state agency shall
164 charge another state agency a fee, assessment, rent or other
165 charge for services or resources received by authority of this
166 section.

167 **SECTION 7.** Section 77-1-25, Mississippi Code of 1972, is
168 reenacted as follows:

169 77-1-25. No member of the staff of the commission, or any
170 other person, shall use uniforms, material, or equipment of the
171 commission for private or political purposes. Members of the
172 staff of the commission may be candidates for political office but
173 must take a leave of absence to do so. Members of the staff of
174 the commission may take part in political campaigns other than
175 campaigns for Public Service Commission but may not solicit or



176 receive campaign contributions from regulated utilities. Anyone
177 violating the provisions of this section shall be guilty of a
178 misdemeanor and, upon conviction, shall be punished as provided by
179 law and shall be dismissed from the staff of the commission.

180 **SECTION 8.** Section 77-1-27, Mississippi Code of 1972, is
181 reenacted as follows:

182 77-1-27. All commission employees provided for in this
183 chapter shall be paid out of the appropriations made to defray the
184 expenses of the commission, upon requisitions and warrants in the
185 same manner provided by law for the disbursements of
186 appropriations for the commission. An itemized account shall be
187 kept of all receipts and expenditures and shall be reported to the
188 Legislature by the commission.

189 **SECTION 9.** Section 77-1-29, Mississippi Code of 1972, is
190 reenacted as follows:

191 77-1-29. On or before the twentieth day of each calendar
192 month, the commission shall pay into the State Treasury to the
193 account of the "Public Service Commission Regulation Fund" all
194 monies collected by it during the preceding calendar month,
195 showing from whom collected, when collected and for what purposes
196 collected. All disbursements made by the commission or from the
197 regulation fund for any purposes, other than for salaries provided
198 by law, shall be supported by a detailed and itemized statement
199 approved by the commission for commission disbursements. The
200 commission shall not expend funds from the "Public Service



201 Commission Regulation Fund" to employ personnel whose services
202 would duplicate services provided by any employee of the Public
203 Utilities Staff.

204 From and after July 1, 2016, the expenses of this agency
205 shall be defrayed by appropriation from the State General Fund and
206 all user charges and fees authorized under this section shall be
207 deposited into the State General Fund as authorized by law.

208 From and after July 1, 2016, no state agency shall charge
209 another state agency a fee, assessment, rent or other charge for
210 services or resources received by authority of this section.

211 **SECTION 10.** Section 77-1-31, Mississippi Code of 1972, is
212 reenacted as follows:

213 77-1-31. The commission shall keep a docket of petitions and
214 complaints, which shall be entered in regular order. The docket
215 shall be called at each regular meeting of the board, and the
216 cases thereon disposed of, or, if necessary, continued until the
217 next meeting.

218 **SECTION 11.** Section 77-1-33, Mississippi Code of 1972, is
219 reenacted as follows:

220 77-1-33. In any matter of inquiry pending before the
221 commission or any member thereof, subpoenas for witnesses, and
222 subpoenas duces tecum, may be issued by the secretary, under seal,
223 or by any member without the seal, and shall be executed and
224 returned by any sheriff, constable, or marshal, under the like
225 penalties of law for failure to execute and return the process of



226 the circuit court. If any person duly summoned to appear and
227 testify before the commission, or before any one or more of the
228 commissioners, shall fail or refuse to appear and testify, or to
229 bring and produce, as commanded, any book, paper, or document,
230 without a lawful excuse, or shall refuse to answer any proper
231 question propounded to him by the commission or any of the
232 commissioners, or if any person shall obstruct the commission, or
233 one or more of the commissioners in the discharge of duty, or
234 shall conduct himself in a rude, disrespectful, or disorderly
235 manner before the commission deliberating in the discharge of
236 duty, such witness or person shall be guilty of a misdemeanor,
237 and, upon conviction, shall be fined not more than One Thousand
238 Dollars (\$1,000.00), or be imprisoned in the county jail for a
239 period not exceeding six (6) months, or both.

240 **SECTION 12.** Section 77-1-35, Mississippi Code of 1972, is
241 reenacted as follows:

242 77-1-35. The several members of the commission and the
243 secretary may, in the discharge of their duties, administer oaths
244 and take affidavits. The commission and each member thereof may
245 examine witnesses under oath in all matters coming before them.
246 If any person shall testify falsely, or make any false affidavit
247 or oath before the commission, or before any of the commissioners,
248 or before any officer, to any matter coming before the commission,
249 he shall be guilty of perjury, and, upon conviction, shall be
250 punished according to law.



251 **SECTION 13.** Section 77-1-37, Mississippi Code of 1972, is
252 reenacted as follows:

253 77-1-37. Witnesses summoned to appear before the commission
254 shall be entitled to the same per diem and mileage as witnesses
255 attending the circuit court. Witnesses summoned by the commission
256 on its behalf shall be paid as are other expenditures of the
257 commission, upon the certificate of the commission showing the
258 amount to which such witness may be entitled. Witnesses summoned
259 for any carrier shall be paid by it.

260 **SECTION 14.** Section 77-1-39, Mississippi Code of 1972, is
261 reenacted as follows:

262 77-1-39. In all cases where the testimony of witnesses is
263 given orally before the commission any interested party or the
264 commission shall have the right to have said testimony taken down
265 and transcribed by a stenographer or court reporter, who is not an
266 employee of the commission, to be agreed upon by the parties or
267 appointed by the commission. The stenographer or court reporter
268 so employed shall be duly sworn and his or her certificate that
269 the transcript of such evidence is correct together with the
270 official certificate of any one (1) of the commissioners that he
271 has read the same and that it is in his opinion correct shall
272 entitle such transcript or a certified copy thereof to be received
273 in evidence on any appeal or in any court in this state subject
274 only to any objection that the same is not relevant or material.
275 The stenographer or court reporter shall be paid in accordance



276 with the provisions of Section 9-13-33. The commission shall have
277 the right to require any party demanding an official stenographer
278 to guarantee or prepay the costs thereof in all proper cases.

279 **SECTION 15.** Section 77-1-41, Mississippi Code of 1972, is
280 reenacted as follows:

281 77-1-41. All findings of the commission and the
282 determination of every matter by it shall be made in writing and
283 placed upon its minutes. Proof thereof shall be made by a copy of
284 the same duly certified by the secretary under the seal of the
285 commission. Whenever any matter has been determined by the
286 commission, in the course of any proceeding before it the fact of
287 such determination, duly certified, shall be received in all
288 courts and by every officer in civil cases as prima facie evidence
289 that such determination was right and proper. The record of the
290 proceedings of the commission shall be deemed a public record, and
291 shall at all reasonable times be subject to the inspection of the
292 public.

293 **SECTION 16.** Section 77-1-43, Mississippi Code of 1972, is
294 reenacted as follows:

295 77-1-43. The commission may apply to the circuit or chancery
296 court, by proper proceeding, for aid in the enforcement of
297 obedience to its process, and to compel compliance with Title 77,
298 Mississippi Code of 1972, and its lawful rules, regulations,
299 orders, decisions, and determinations. Said courts shall have
300 jurisdiction to grant aid and relief in such cases, subject to the



301 right of appeal to the Supreme Court by the party aggrieved. The
302 commission itself may, by order after notice and hearing,
303 institute such proceedings or, at the request of the commission by
304 order after notice and hearing, the Attorney General, or district
305 attorney in his district, shall institute such proceedings in the
306 name of the commission.

307 **SECTION 17.** Section 77-1-47, Mississippi Code of 1972, is
308 reenacted as follows:

309 77-1-47. Appeals from any final finding, order or judgment
310 of the commission shall be taken and perfected by the filing of a
311 bond in the sum of Five Hundred Dollars (\$500.00) with two (2)
312 sureties, or with a surety company qualified to do business in
313 Mississippi as the surety, conditioned to pay the cost of such
314 appeal. Said bond shall be approved by the chairman or secretary
315 of the commission, or by the judge of the court to which such
316 appeal is taken in case the chairman or secretary of the
317 commission refuses to approve a proper bond tendered to them
318 within the time limited for taking appeals. The commission may
319 grant a supersedeas bond on any appeal, in such penalty and with
320 such surety thereon as it may deem sufficient, and may, during the
321 pendency of any appeal, at any time, require the increase of any
322 such supersedeas bond or additional securities thereon. The judge
323 of the Circuit Court of Hinds County may on petition therefor by
324 any party entitled to an appeal, presented to him within six (6)
325 months of the date of the final finding, order, or judgment of the



326 commission appealed from, award a writ of supersedeas to any such
327 final finding, order, or judgment of the commission, upon the
328 filing of a supersedeas bond in an amount to be fixed by said
329 judge. All appeal bonds for the payment of costs, and all
330 supersedeas bonds, shall be made payable to the state and may be
331 enforced in the name of the state by motion or other legal
332 proceedings or remedy in any circuit court of this state having
333 jurisdiction of a motion or action on such bond, and the process
334 and proceedings thereon shall be as provided by law upon bonds of
335 like character required and taken by any court of this state.
336 Such circuit court may render and enter like judgments upon such
337 bonds as may, by law, be rendered and entered upon bonds of like
338 character, and process of execution shall issue upon such
339 judgments, and may be levied and executed as provided by law in
340 other cases.

341 **SECTION 18.** Section 77-1-49, Mississippi Code of 1972, is
342 reenacted as follows:

343 77-1-49. The commission shall make a report every year to
344 the Legislature of all its acts and doings for the preceding
345 fiscal year.

346 **SECTION 19.** Section 77-1-53, Mississippi Code of 1972, is
347 brought forward as follows:

348 77-1-53. (1) Whenever the commission, an employee of the
349 commission or any employee of the public utilities staff has
350 reason to believe that a willful and knowing violation of any



351 statute administered by the commission or any regulation or any
352 order of the commission has occurred, the commission may cause a
353 written complaint to be served upon the alleged violator or
354 violators. The complaint shall specify the provisions of such
355 statute, regulation or order alleged to be violated and the facts
356 alleged to constitute a violation thereof and shall require that
357 the alleged violator appear before the commission at a time and
358 place specified in the notice and answer the charges complained
359 of. The time of appearance before the commission shall not be
360 less than twenty (20) days from the date of the service of the
361 complaint, unless the commission finds that the public convenience
362 or necessity requires that such hearing be held at an earlier
363 date.

364 (2) The commission shall afford an opportunity for a fair
365 hearing to the alleged violator or violators at the time and place
366 specified in the complaint. On the basis of the evidence produced
367 at the hearing, the commission shall make findings of fact and
368 conclusions of law and enter its order, which in its opinion will
369 be in the best interests of the consuming public. Failure to
370 appear at any such hearing, without prior authorization to do so
371 from the commission, may result in the commission finding the
372 alleged violator guilty of the charges complained of by default,
373 and at such time an order may be entered, including the assessment
374 of a penalty. The commission shall give written notice of such
375 order to the alleged violator and to such other persons as shall



376 have appeared at the hearing or made written request for notice of
377 the order. The commission may assess such penalties as provided
378 in subsection (3) of this section.

379 (3) Any person found by the commission, pursuant to a
380 hearing or by default as provided in this section, violating any
381 statute administered by the commission, or any regulation or order
382 of the commission in pursuance thereof, shall be subject to a
383 civil penalty of not more than Five Thousand Dollars (\$5,000.00)
384 for each violation, to be assessed and collected by the
385 commission. Each day that a violation continues shall constitute
386 a separate violation. In lieu of, or in addition to, the monetary
387 penalty, the commission, for any violation by a certificate
388 holder, may impose a penalty in accordance with Section 77-3-21,
389 Mississippi Code of 1972, if it finds that the violator is not
390 rendering reasonably adequate service. Appeals from the
391 imposition of the civil penalty may be taken to the Circuit Court
392 of the First Judicial District of Hinds County in the same manner
393 as appeals from orders of the commission constituting judicial
394 findings.

395 (4) All penalties collected by the commission under this
396 section shall be deposited in the Public Service Commission
397 Regulation Fund.

398 (5) No portion of any penalty or costs associated with an
399 administrative or court proceeding which results in the assessment
400 of a penalty against a public utility for violation of any statute



401 administered by the commission, or any regulation or order of the
402 commission shall be considered by the commission in fixing any
403 rates or charges of such public utility.

404 (6) This section shall be in addition to any other law which
405 provides for the imposition of penalties for the violation of any
406 statute administered by the commission or any regulation or order
407 of the commission.

408 (7) From and after July 1, 2016, the expenses of this agency
409 shall be defrayed by appropriation from the State General Fund and
410 all user charges and fees authorized under this section shall be
411 deposited into the State General Fund as authorized by law.

412 (8) From and after July 1, 2016, no state agency shall
413 charge another state agency a fee, assessment, rent or other
414 charge for services or resources received by authority of this
415 section.

416 **SECTION 20.** Section 77-1-55, Mississippi Code of 1972, is
417 amended as follows:

418 77-1-55. (1) The Public Service Commission, with the aid
419 and the assistance of the Public Utilities Staff, shall have the
420 power to monitor, investigate, and seek relief in any appropriate
421 federal forum from all existing or proposed interstate rates,
422 charges, allocations and classifications, and all rules and
423 practices in relation thereto promulgated and prescribed by or for
424 any public utility as defined in Section 77-3-3(d) (i).



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

430 (3) For the purpose of this section, the Public Service
431 Commission and the Executive Director of the Public Utilities
432 Staff may each enter into professional services contracts with one
433 or more attorneys or consultants from a competent, qualified and
434 independent firm as may be required by the commission or the
435 executive director. Costs associated with the professional
436 service contracts shall not exceed One Million Five Hundred
437 Thousand Dollars (\$1,500,000.00) for each agency with respect to
438 each rate regulated affected utility in any twelve-month period.
439 The consultants or counsel shall submit periodically, but no less
440 frequently than once each calendar quarter, to the executive
441 director or the commission, as applicable, for approval of
442 payment, itemized bills detailing the work performed. The
443 executive director or the chairman of the commission, as
444 applicable, shall requisition the applicable public utility to
445 make the requisite payments to such consultants. The commission
446 shall allow the utility to recover both the total costs the
447 utility incurred under this section and the carrying charges for
448 those costs through a rate rider established to recover the costs
449 incurred and carrying charges incurred. Such rider shall include



450 a true-up provision to ensure actual recovery of costs paid or
451 otherwise incurred by the utility.

452 * * *

453 **SECTION 21.** Section 77-1-51, Mississippi Code of 1972, is
454 amended as follows:

455 77-1-51. Sections 77-1-1 through * * * 77-1-55, which create
456 the Public Service Commission and prescribe its powers and duties,
457 shall stand repealed * * * on December 31, * * * 2027.

458 **SECTION 22.** This act shall take effect and be in force from
459 and after July 1, 2024.

