

By: Representative Kinkade

To: Public Utilities

HOUSE BILL NO. 1484

1 AN ACT TO AMEND SECTION 77-3-21, MISSISSIPPI CODE OF 1972, TO
 2 AUTHORIZE THE PUBLIC SERVICE COMMISSION TO CANCEL A MUNICIPALITY'S
 3 CERTIFICATE TO PROVIDE SERVICE GREATER THAN ONE MILE OUTSIDE ITS
 4 CORPORATE BOUNDARIES UPON A FINDING THAT THE MUNICIPALITY DID NOT
 5 PROVIDE REASONABLY ADEQUATE SERVICE; TO AMEND SECTION 77-3-22,
 6 MISSISSIPPI CODE OF 1972, TO INCLUDE MUNICIPALLY OWNED OR OPERATED
 7 ELECTRIC UTILITIES PROVIDING SERVICE GREATER THAN ONE MILE OUTSIDE
 8 OF MUNICIPAL BOUNDARIES; TO BRING FORWARD SECTION 77-3-1,
 9 MISSISSIPPI CODE OF 1972, FOR PURPOSE OF POSSIBLE AMENDMENT; AND
 10 FOR RELATED PURPOSES.

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

12 **SECTION 1.** Section 77-3-21, Mississippi Code of 1972, is
 13 amended as follows:

14 77-3-21. The commission may, after a hearing had upon due
 15 notice, make such findings as may be supported by proof as to
 16 whether any utility holding a certificate under the provisions of
 17 this article is rendering reasonably adequate service in any area
 18 covered by such utility's certificate. In the event the
 19 commission finds that such utility is not rendering reasonably
 20 adequate service the commission may enter an order specifying in
 21 what particulars such utility has failed to render reasonably
 22 adequate service and order that such failure be corrected within a



23 reasonable time, such time to be fixed in such order. If the
24 utility so ordered to correct such a failure fails to comply with
25 such order of the commission and the commission finds that
26 cancellation of its certificate would be in the best interest of
27 the consuming public served by the holder of the certificate, its
28 certificate for the area affected may be revoked and cancelled by
29 the commission.

30 Prior to any municipality exercising the power of eminent
31 domain as provided in Section 77-3-17, the commission shall
32 determine that the certificate of public convenience and necessity
33 granted to the utility pursuant to Section 77-3-13 for the service
34 area wherein such facilities are located, shall be cancelled as
35 provided in this section. Nothing in this paragraph shall be
36 construed to include service for water and sewage.

37 Notwithstanding Section 77-3-1(1), the commission shall have
38 jurisdiction to investigate whether any municipality that holds a
39 certificate to provide service greater than one (1) mile outside
40 its municipal boundaries is providing reasonably adequate service.
41 Following a hearing and upon making such a finding, the commission
42 shall have full authority to enter any order authorized under this
43 section, including canceling the certificate for the area that
44 extends beyond the municipalities' boundaries.

45 **SECTION 2.** Section 77-3-22, Mississippi Code of 1972, is
46 amended as follows:



47 77-3-22. Notwithstanding Section 77-3-1(1), if the
48 commission determines that any privately owned water and/or sewer
49 system, or any municipally owned or operated electric utility
50 providing service greater than one (1) mile outside its municipal
51 boundaries and within its jurisdiction is unable or unwilling to
52 adequately serve its customers or has been actually or effectively
53 abandoned by its owner, or that its management is grossly
54 inefficient, irresponsible or unresponsive to the needs of its
55 customers, the commission or its designated representative may
56 petition the Chancery Court of the First Judicial District of
57 Hinds County or the chancery court of any county wherein the
58 public utility does business for an order attaching the assets of
59 the privately owned water and/or sewer system or municipally owned
60 or operated electric utility and placing such * * * system under
61 the sole control and responsibility of a receiver. If the court
62 determines that the petition is proper in all respects and finds,
63 after a hearing thereon, the allegations contained in the petition
64 are true, it shall order that the * * * system be placed in
65 receivership. The court, in its discretion and in consideration
66 of the recommendation of the commission or its designated
67 representative, may appoint a receiver who shall be a responsible
68 individual, partnership, corporation or political subdivision
69 knowledgeable in water * * *, sewer or electric service affairs
70 and who shall maintain control and responsibility for the
71 operation and management of the affairs of such * * * system. The



72 receiver shall operate the * * * system so as to preserve the
73 assets of the * * * system and to serve the best interests of its
74 customers. The receiver shall be compensated from the assets of
75 the * * * system in an amount to be determined by the court.

76 Control of and responsibility for the * * * system shall
77 remain in the receiver until the court determines that it is in
78 the best interests of the customers that the * * * system be
79 returned to the owner, transferred to another owner or assumed by
80 another * * * operator, system or public service corporation. If
81 the court, after hearing, determines that control of and
82 responsibility for the affairs of the * * * system should not be
83 returned to the legal owner thereof, the receiver may proceed to
84 liquidate the assets of such * * * system in the manner provided
85 by law.

86 In any court-initiated receivership for a municipally owned
87 or operated electric utility providing service greater than one
88 (1) mile outside its municipal boundaries, the receiver shall
89 assume the responsibilities and obligations of the municipality
90 with regard to any existing wholesale power contract.

91 Mississippi laws and Mississippi Rules of Civil Procedure
92 generally applicable to receivership shall govern receiverships
93 created under this section.

94 This section is in addition to the provisions of Section
95 77-3-21.



96 **SECTION 3.** Section 77-3-1, Mississippi Code of 1972, is
97 brought forward as follows:

98 77-3-1. (1) Except as otherwise provided in Section 77-3-6,
99 any public utility as defined in paragraph (d) of Section 77-3-3,
100 owned or operated by a municipality shall not be subject to the
101 provisions of this article, except as to extension of utilities
102 greater than one (1) mile outside corporate boundaries after March
103 29, 1956.

104 (2) The provisions of this chapter shall not apply to the
105 distribution of water by an eligible homeowners association only
106 to its residents, irrespective of the subdivision's location
107 inside of an area subject to a Certificate of Public Convenience
108 and Necessity held by an eligible municipality. Additionally, the
109 provisions of this chapter shall not apply to any entity supplying
110 water to an eligible homeowners association for purposes of
111 supplying water only to its residents. These provisions shall not
112 apply whether an eligible homeowners association elects to provide
113 water to its residents on a full-time basis or opts for an
114 emergency connection to a private water source for use only when
115 water from an eligible municipality is unavailable, unreliable or
116 unsafe.

117 **SECTION 4.** This act shall take effect and be in force from
118 and after July 1, 2024.

