

By: Senator(s) Carter

To: Energy; Government
Structure

SENATE BILL NO. 2283

1 AN ACT TO AMEND SECTIONS 77-1-51 AND 77-1-55, MISSISSIPPI
2 CODE OF 1972, TO EXTEND THE DATE OF REPEAL ON THE PROVISIONS OF
3 LAW CREATING THE PUBLIC SERVICE COMMISSION AND PRESCRIBING ITS
4 POWERS AND DUTIES; TO SPECIFY THE APPLICATION OF THE REPEALER
5 CONTAINED IN SECTION 77-1-51 TO THE ENTIRE PUBLIC SERVICE
6 COMMISSION CHAPTER; TO BRING FORWARD SECTIONS 77-1-1, 77-1-3,
7 77-1-5, 77-1-6, 77-1-11, 77-1-15, 77-1-25, 77-1-27, 77-1-29,
8 77-1-31, 77-1-33, 77-1-35, 77-1-37, 77-1-39, 77-1-41, 77-1-43,
9 77-1-47, 77-1-49 AND 77-1-53, MISSISSIPPI CODE OF 1972, FOR THE
10 PURPOSE OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

12 **SECTION 1.** Section 77-1-51, Mississippi Code of 1972, is
13 amended as follows:

14 77-1-51. * * * This chapter shall stand repealed as of
15 December 31, * * * 2028.

16 **SECTION 2.** Section 77-1-55, Mississippi Code of 1972, is
17 amended as follows:

18 77-1-55. (1) The Public Service Commission, with the aid
19 and the assistance of the Public Utilities Staff, shall have the
20 power to monitor, investigate, and seek relief in any appropriate
21 federal forum from all existing or proposed interstate rates,
22 charges, allocations and classifications, and all rules and



23 practices in relation thereto promulgated and prescribed by or for
24 any public utility as defined in Section 77-3-3(d) (i).

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

30 (3) For the purpose of this section, the Public Service
31 Commission and the Executive Director of the Public Utilities
32 Staff may each enter into professional services contracts with one
33 or more attorneys or consultants from a competent, qualified and
34 independent firm as may be required by the commission or the
35 executive director. Costs associated with the professional
36 service contracts shall not exceed One Million Five Hundred
37 Thousand Dollars (\$1,500,000.00) for each agency with respect to
38 each rate regulated affected utility in any twelve-month period.
39 The consultants or counsel shall submit periodically, but no less
40 frequently than once each calendar quarter, to the executive
41 director or the commission, as applicable, for approval of
42 payment, itemized bills detailing the work performed. The
43 executive director or the chairman of the commission, as
44 applicable, shall requisition the applicable public utility to
45 make the requisite payments to such consultants. The commission
46 shall allow the utility to recover both the total costs the
47 utility incurred under this section and the carrying charges for



48 those costs through a rate rider established to recover the costs
49 incurred and carrying charges incurred. Such rider shall include
50 a true-up provision to ensure actual recovery of costs paid or
51 otherwise incurred by the utility.

52 * * *

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

55 77-1-1. A public service commission, hereinafter referred to
56 in this chapter as the commission, is hereby created, consisting
57 of three (3) members, one (1) to be elected from each of the three
58 (3) Supreme Court districts by the qualified electors of such
59 district. Elections for such officers shall be held in the
60 general election in November 1959, and every four (4) years
61 thereafter, and the terms of office of the three (3) commissioners
62 elected at the general election in November 1959 shall expire on
63 December 31, 1963.

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

66 The commissioners shall each possess the qualifications
67 prescribed for the Secretary of State. The commissioners shall
68 not operate, own any stock in, or be in the employment of any
69 telephone company, gas or electric utility company, or any other
70 public utility that shall come under their jurisdiction or
71 supervision.



72 **SECTION 4.** Section 77-1-3, Mississippi Code of 1972, is
73 brought forward as follows:

74 77-1-3. The commission shall have a seal, having around the
75 margin the words "Mississippi Public Service Commission," and in
76 the center such device as it may select. The acts of the
77 commission shall be authenticated by its seal.

78 **SECTION 5.** Section 77-1-5, Mississippi Code of 1972, is
79 brought forward as follows:

80 77-1-5. The commission shall keep an office in the City of
81 Jackson, which shall be kept open Monday through Friday of each
82 week for eight (8) hours each day. The commission shall meet at
83 its office on the first Tuesday of each month and at such other
84 times and places as its duties may require. The commission may
85 sit from day to day and from time to time, and any meeting may be
86 pretermitted not exceeding two (2) in any year.

87 The members of the commission shall devote their entire time
88 to the performance of their official duties on every business day,
89 except on the legal holidays enumerated in Section 3-3-7,
90 Mississippi Code of 1972. However, official acts of the
91 commission done on legal holidays shall be valid.

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

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



96 **SECTION 6.** Section 77-1-6, Mississippi Code of 1972, is
97 brought forward as follows:

98 77-1-6. There is hereby established in the State Treasury a
99 special fund to be known as the "Public Service Commission
100 Regulation Fund." Such fund shall be the sole fund of the
101 commission for all monies collected and deposited to the credit of
102 or appropriated to the commission. The fund shall be administered
103 as provided in this title and shall be audited annually by the
104 State Auditor.

105 From and after July 1, 2016, the expenses of this agency
106 shall be defrayed by appropriation from the State General Fund and
107 all user charges and fees authorized under this section shall be
108 deposited into the State General Fund as authorized by law and as
109 determined by the State Fiscal Officer.

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

113 **SECTION 7.** Section 77-1-11, Mississippi Code of 1972, is
114 brought forward as follows:

115 77-1-11. (1) It shall be unlawful for any public service
116 commissioner, any candidate for public service commissioner, or
117 any employee of the Public Service Commission or Public Utilities
118 Staff to knowingly accept any gift, pass, money, campaign
119 contribution or any emolument or other pecuniary benefit
120 whatsoever, either directly or indirectly, from any person



121 interested as owner, agent or representative, or from any person
122 acting in any respect for such owner, agent or representative of
123 any telephone company, gas or electric utility company, or any
124 other public utility that shall come under the jurisdiction or
125 supervision of the Public Service Commission. Any person found
126 guilty of violating the provisions of this subsection shall
127 immediately forfeit his or her office or position and shall be
128 fined not less than Five Thousand Dollars (\$5,000.00), imprisoned
129 in the State Penitentiary for not less than one (1) year, or both.

130 (2) It shall be unlawful for any person interested as owner,
131 agent or representative, or any person acting in any respect for
132 such owner, agent or representative of any telephone company, gas
133 or electric utility, or any other public utility that shall come
134 under the jurisdiction or supervision of the Public Service
135 Commission to offer any gift, pass, money, campaign contribution
136 or any emolument or other pecuniary benefit whatsoever to any
137 public service commissioner, any candidate for public service
138 commissioner or any employee of the Public Service Commission or
139 Public Utilities Staff. Any party found guilty of violating the
140 provisions of this subsection shall be fined not less than Five
141 Thousand Dollars (\$5,000.00), or imprisoned in the State
142 Penitentiary for not less than one (1) year, or both.

143 (3) For purposes of this section, the term "emolument" shall
144 include salary, donations, contributions, loans, stock tips,
145 vacations, trips, honorarium, directorships or consulting posts.



146 Expenses associated with social occasions afforded public servants
147 shall not be deemed a gift, emolument or other pecuniary benefit
148 as defined in Section 25-4-103(k), Mississippi Code of 1972.

149 (4) For purposes of this section, a person who is a member
150 of a water, gas, electric or other cooperative association
151 regulated by the Public Service Commission shall not, by virtue of
152 such membership, be deemed an owner, agent or representative of
153 such association unless such person is acting in any respect for
154 or as an owner, agent or representative of such association; nor
155 shall a person who owns less than one-half of one percent (1/2 of
156 1%) in stock, the value thereof not to exceed Ten Thousand Dollars
157 (\$10,000.00), of any public utility that is regulated by the
158 Public Service Commission, or of any holding company of such
159 public utility, by virtue of such ownership, be deemed an owner,
160 agent or representative of such public utility unless such person
161 is acting in any respect for or as an owner, agent or
162 representative of such public utility.

163 **SECTION 8.** Section 77-1-15, Mississippi Code of 1972, is
164 brought forward as follows:

165 77-1-15. (1) There shall be an executive secretary of the
166 commission, hereinafter referred to in this chapter as the
167 secretary, to be appointed by the commission, by and with the
168 advice and consent of the Senate, for the term of the
169 commissioners. The secretary must have the same qualifications as
170 the commissioners and shall be subject to the same



171 disqualifications and to like penalties, except that he shall not
172 be liable to impeachment. He shall receive a salary fixed by the
173 Legislature. He shall take the oath of office and shall be
174 removable at the pleasure of the commission, which may fill any
175 vacancy until the Senate confirms a successor. The secretary
176 shall make bond as provided for other state officers, in the sum
177 of Ten Thousand Dollars (\$10,000.00), conditioned upon the
178 faithful performance of the duties of his office.

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

182 (3) The secretary of the commission shall be the custodian
183 of all records, documents, and the seal of the commission. He
184 shall issue all citations, subpoenas and other rightful orders and
185 documents, and perform all other duties usually required of such
186 officer, and as required by the commission.

187 (4) It shall be the duty and responsibility of the secretary
188 to supervise and manage the offices and staff of the Public
189 Service Commission and formulate written policies and procedures
190 for the effective and efficient operation of the office and
191 present these policies and procedures to the board for
192 promulgation.

193 (5) From and after July 1, 2016, the expenses of this agency
194 shall be defrayed by appropriation from the State General Fund and



195 all user charges and fees authorized under this section shall be
196 deposited into the State General Fund as authorized by law.

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

201 **SECTION 9.** Section 77-1-25, Mississippi Code of 1972, is
202 brought forward as follows:

203 77-1-25. No member of the staff of the commission, or any
204 other person, shall use uniforms, material, or equipment of the
205 commission for private or political purposes. Members of the
206 staff of the commission may be candidates for political office but
207 must take a leave of absence to do so. Members of the staff of
208 the commission may take part in political campaigns other than
209 campaigns for Public Service Commission but may not solicit or
210 receive campaign contributions from regulated utilities. Anyone
211 violating the provisions of this section shall be guilty of a
212 misdemeanor and, upon conviction, shall be punished as provided by
213 law and shall be dismissed from the staff of the commission.

214 **SECTION 10.** Section 77-1-27, Mississippi Code of 1972, is
215 brought forward as follows:

216 77-1-27. All commission employees provided for in this
217 chapter shall be paid out of the appropriations made to defray the
218 expenses of the commission, upon requisitions and warrants in the
219 same manner provided by law for the disbursements of



220 appropriations for the commission. An itemized account shall be
221 kept of all receipts and expenditures and shall be reported to the
222 Legislature by the commission.

223 **SECTION 11.** Section 77-1-29, Mississippi Code of 1972, is
224 brought forward as follows:

225 77-1-29. On or before the twentieth day of each calendar
226 month, the commission shall pay into the State Treasury to the
227 account of the "Public Service Commission Regulation Fund" all
228 monies collected by it during the preceding calendar month,
229 showing from whom collected, when collected and for what purposes
230 collected. All disbursements made by the commission or from the
231 regulation fund for any purposes, other than for salaries provided
232 by law, shall be supported by a detailed and itemized statement
233 approved by the commission for commission disbursements. The
234 commission shall not expend funds from the "Public Service
235 Commission Regulation Fund" to employ personnel whose services
236 would duplicate services provided by any employee of the Public
237 Utilities Staff.

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

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



245 **SECTION 12.** Section 77-1-31, Mississippi Code of 1972, is
246 brought forward as follows:

247 77-1-31. The commission shall keep a docket of petitions and
248 complaints, which shall be entered in regular order. The docket
249 shall be called at each regular meeting of the board, and the
250 cases thereon disposed of, or, if necessary, continued until the
251 next meeting.

252 **SECTION 13.** Section 77-1-33, Mississippi Code of 1972, is
253 brought forward as follows:

254 77-1-33. In any matter of inquiry pending before the
255 commission or any member thereof, subpoenas for witnesses, and
256 subpoenas duces tecum, may be issued by the secretary, under seal,
257 or by any member without the seal, and shall be executed and
258 returned by any sheriff, constable, or marshal, under the like
259 penalties of law for failure to execute and return the process of
260 the circuit court. If any person duly summoned to appear and
261 testify before the commission, or before any one or more of the
262 commissioners, shall fail or refuse to appear and testify, or to
263 bring and produce, as commanded, any book, paper, or document,
264 without a lawful excuse, or shall refuse to answer any proper
265 question propounded to him by the commission or any of the
266 commissioners, or if any person shall obstruct the commission, or
267 one or more of the commissioners in the discharge of duty, or
268 shall conduct himself in a rude, disrespectful, or disorderly
269 manner before the commission deliberating in the discharge of



270 duty, such witness or person shall be guilty of a misdemeanor,
271 and, upon conviction, shall be fined not more than One Thousand
272 Dollars (\$1,000.00), or be imprisoned in the county jail for a
273 period not exceeding six (6) months, or both.

274 **SECTION 14.** Section 77-1-35, Mississippi Code of 1972, is
275 brought forward as follows:

276 77-1-35. The several members of the commission and the
277 secretary may, in the discharge of their duties, administer oaths
278 and take affidavits. The commission and each member thereof may
279 examine witnesses under oath in all matters coming before them.
280 If any person shall testify falsely, or make any false affidavit
281 or oath before the commission, or before any of the commissioners,
282 or before any officer, to any matter coming before the commission,
283 he shall be guilty of perjury, and, upon conviction, shall be
284 punished according to law.

285 **SECTION 15.** Section 77-1-37, Mississippi Code of 1972, is
286 brought forward as follows:

287 77-1-37. Witnesses summoned to appear before the commission
288 shall be entitled to the same per diem and mileage as witnesses
289 attending the circuit court. Witnesses summoned by the commission
290 on its behalf shall be paid as are other expenditures of the
291 commission, upon the certificate of the commission showing the
292 amount to which such witness may be entitled. Witnesses summoned
293 for any carrier shall be paid by it.



294 **SECTION 16.** Section 77-1-39, Mississippi Code of 1972, is
295 brought forward as follows:

296 77-1-39. In all cases where the testimony of witnesses is
297 given orally before the commission any interested party or the
298 commission shall have the right to have said testimony taken down
299 and transcribed by a stenographer or court reporter, who is not an
300 employee of the commission, to be agreed upon by the parties or
301 appointed by the commission. The stenographer or court reporter
302 so employed shall be duly sworn and his or her certificate that
303 the transcript of such evidence is correct together with the
304 official certificate of any one (1) of the commissioners that he
305 has read the same and that it is in his opinion correct shall
306 entitle such transcript or a certified copy thereof to be received
307 in evidence on any appeal or in any court in this state subject
308 only to any objection that the same is not relevant or material.
309 The stenographer or court reporter shall be paid in accordance
310 with the provisions of Section 9-13-33. The commission shall have
311 the right to require any party demanding an official stenographer
312 to guarantee or prepay the costs thereof in all proper cases.

313 **SECTION 17.** Section 77-1-41, Mississippi Code of 1972, is
314 brought forward as follows:

315 77-1-41. All findings of the commission and the
316 determination of every matter by it shall be made in writing and
317 placed upon its minutes. Proof thereof shall be made by a copy of
318 the same duly certified by the secretary under the seal of the



319 commission. Whenever any matter has been determined by the
320 commission, in the course of any proceeding before it the fact of
321 such determination, duly certified, shall be received in all
322 courts and by every officer in civil cases as prima facie evidence
323 that such determination was right and proper. The record of the
324 proceedings of the commission shall be deemed a public record, and
325 shall at all reasonable times be subject to the inspection of the
326 public.

327 **SECTION 18.** Section 77-1-43, Mississippi Code of 1972, is
328 brought forward as follows:

329 77-1-43. The commission may apply to the circuit or chancery
330 court, by proper proceeding, for aid in the enforcement of
331 obedience to its process, and to compel compliance with Title 77,
332 Mississippi Code of 1972, and its lawful rules, regulations,
333 orders, decisions, and determinations. Said courts shall have
334 jurisdiction to grant aid and relief in such cases, subject to the
335 right of appeal to the Supreme Court by the party aggrieved. The
336 commission itself may, by order after notice and hearing,
337 institute such proceedings or, at the request of the commission by
338 order after notice and hearing, the Attorney General, or district
339 attorney in his district, shall institute such proceedings in the
340 name of the commission.

341 **SECTION 19.** Section 77-1-47, Mississippi Code of 1972, is
342 brought forward as follows:



343 77-1-47. Appeals from any final finding, order or judgment
344 of the commission shall be taken and perfected by the filing of a
345 bond in the sum of Five Hundred Dollars (\$500.00) with two (2)
346 sureties, or with a surety company qualified to do business in
347 Mississippi as the surety, conditioned to pay the cost of such
348 appeal. Said bond shall be approved by the chairman or secretary
349 of the commission, or by the judge of the court to which such
350 appeal is taken in case the chairman or secretary of the
351 commission refuses to approve a proper bond tendered to them
352 within the time limited for taking appeals. The commission may
353 grant a supersedeas bond on any appeal, in such penalty and with
354 such surety thereon as it may deem sufficient, and may, during the
355 pendency of any appeal, at any time, require the increase of any
356 such supersedeas bond or additional securities thereon. The judge
357 of the Circuit Court of Hinds County may on petition therefor by
358 any party entitled to an appeal, presented to him within six (6)
359 months of the date of the final finding, order, or judgment of the
360 commission appealed from, award a writ of supersedeas to any such
361 final finding, order, or judgment of the commission, upon the
362 filing of a supersedeas bond in an amount to be fixed by said
363 judge. All appeal bonds for the payment of costs, and all
364 supersedeas bonds, shall be made payable to the state and may be
365 enforced in the name of the state by motion or other legal
366 proceedings or remedy in any circuit court of this state having
367 jurisdiction of a motion or action on such bond, and the process



368 and proceedings thereon shall be as provided by law upon bonds of
369 like character required and taken by any court of this state.
370 Such circuit court may render and enter like judgments upon such
371 bonds as may, by law, be rendered and entered upon bonds of like
372 character, and process of execution shall issue upon such
373 judgments, and may be levied and executed as provided by law in
374 other cases.

375 **SECTION 20.** Section 77-1-49, Mississippi Code of 1972, is
376 brought forward as follows:

377 77-1-49. The commission shall make a report every year to
378 the Legislature of all its acts and doings for the preceding
379 fiscal year.

380 **SECTION 21.** Section 77-1-53, Mississippi Code of 1972, is
381 brought forward as follows:

382 77-1-53. (1) Whenever the commission, an employee of the
383 commission or any employee of the public utilities staff has
384 reason to believe that a willful and knowing violation of any
385 statute administered by the commission or any regulation or any
386 order of the commission has occurred, the commission may cause a
387 written complaint to be served upon the alleged violator or
388 violators. The complaint shall specify the provisions of such
389 statute, regulation or order alleged to be violated and the facts
390 alleged to constitute a violation thereof and shall require that
391 the alleged violator appear before the commission at a time and
392 place specified in the notice and answer the charges complained



393 of. The time of appearance before the commission shall not be
394 less than twenty (20) days from the date of the service of the
395 complaint, unless the commission finds that the public convenience
396 or necessity requires that such hearing be held at an earlier
397 date.

398 (2) The commission shall afford an opportunity for a fair
399 hearing to the alleged violator or violators at the time and place
400 specified in the complaint. On the basis of the evidence produced
401 at the hearing, the commission shall make findings of fact and
402 conclusions of law and enter its order, which in its opinion will
403 be in the best interests of the consuming public. Failure to
404 appear at any such hearing, without prior authorization to do so
405 from the commission, may result in the commission finding the
406 alleged violator guilty of the charges complained of by default,
407 and at such time an order may be entered, including the assessment
408 of a penalty. The commission shall give written notice of such
409 order to the alleged violator and to such other persons as shall
410 have appeared at the hearing or made written request for notice of
411 the order. The commission may assess such penalties as provided
412 in subsection (3) of this section.

413 (3) Any person found by the commission, pursuant to a
414 hearing or by default as provided in this section, violating any
415 statute administered by the commission, or any regulation or order
416 of the commission in pursuance thereof, shall be subject to a
417 civil penalty of not more than Five Thousand Dollars (\$5,000.00)



418 for each violation, to be assessed and collected by the
419 commission. Each day that a violation continues shall constitute
420 a separate violation. In lieu of, or in addition to, the monetary
421 penalty, the commission, for any violation by a certificate
422 holder, may impose a penalty in accordance with Section 77-3-21,
423 Mississippi Code of 1972, if it finds that the violator is not
424 rendering reasonably adequate service. Appeals from the
425 imposition of the civil penalty may be taken to the Circuit Court
426 of the First Judicial District of Hinds County in the same manner
427 as appeals from orders of the commission constituting judicial
428 findings.

429 (4) All penalties collected by the commission under this
430 section shall be deposited in the Public Service Commission
431 Regulation Fund.

432 (5) No portion of any penalty or costs associated with an
433 administrative or court proceeding which results in the assessment
434 of a penalty against a public utility for violation of any statute
435 administered by the commission, or any regulation or order of the
436 commission shall be considered by the commission in fixing any
437 rates or charges of such public utility.

438 (6) This section shall be in addition to any other law which
439 provides for the imposition of penalties for the violation of any
440 statute administered by the commission or any regulation or order
441 of the commission.



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

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

450 **SECTION 22.** This act shall take effect and be in force from
451 and after June 30, 2024.

