

PROPOSED HOUSE AMENDMENT TO SENATE BILL NO. SB 2295

BY: Hines

Am # 1

A mend By striking After Line 1
And ~~for~~ Insert the following language
and renumber After there In.

Am #

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 THE REPEALER ON THOSE REENACTED SECTIONS; TO
8 AMEND SECTION 77-1-55, MISSISSIPPI CODE OF 1972, TO EXTEND THE
9 DATE OF THE REPEALER ON THE AUTHORITY OF THE PUBLIC SERVICE
10 COMMISSION AND THE PUBLIC UTILITIES STAFF TO HIRE ATTORNEYS AND
11 CONSULTANTS FOR CERTAIN 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 From and after July 1, 2016, the expenses of this agency
66 shall be defrayed by appropriation from the State General Fund and
67 all user charges and fees authorized under this section shall be
68 deposited into the State General Fund as authorized by law and as
69 determined by the State Fiscal Officer.



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

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

75 77-1-11. (1) It shall be unlawful for any public service
76 commissioner, any candidate for public service commissioner, or
77 any employee of the Public Service Commission or Public Utilities
78 Staff to knowingly accept any gift, pass, money, campaign
79 contribution or any emolument or other pecuniary benefit
80 whatsoever, either directly or indirectly, from any person
81 interested as owner, agent or representative, or from any person
82 acting in any respect for such owner, agent or representative of
83 any common or contract carrier by motor vehicle, telephone
84 company, gas or electric utility company, or any other public
85 utility that shall come under the jurisdiction or supervision of
86 the Public Service Commission. Any person found guilty of
87 violating the provisions of this subsection shall immediately
88 forfeit his or her office or position and shall be fined not less
89 than Five Thousand Dollars (\$5,000.00), imprisoned in the State
90 Penitentiary for not less than one (1) year, or both.

91 (2) It shall be unlawful for any person interested as owner,
92 agent or representative, or any person acting in any respect for
93 such owner, agent or representative of any common or contract
94 carrier by motor vehicle, telephone company, gas or electric



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

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

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

120 Public Service Commission, or of any holding company of such
121 public utility, by virtue of such ownership, be deemed an owner,
122 agent or representative of such public utility unless such person
123 is acting in any respect for or as an owner, agent or
124 representative of such public utility.

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

127 77-1-15. (1) There shall be an executive secretary of the
128 commission, hereinafter referred to in this chapter as the
129 secretary, to be appointed by the commission, by and with the
130 advice and consent of the Senate, for the term of the
131 commissioners. The secretary must have the same qualifications as
132 the commissioners and shall be subject to the same
133 disqualifications and to like penalties, except that he shall not
134 be liable to impeachment. He shall receive a salary fixed by the
135 Legislature. He shall take the oath of office and shall be
136 removable at the pleasure of the commission, which may fill any
137 vacancy until the Senate confirms a successor. The secretary
138 shall make bond as provided for other state officers, in the sum
139 of Ten Thousand Dollars (\$10,000.00), conditioned upon the
140 faithful performance of the duties of his office.

141 (2) The secretary shall collect all fees and penalties
142 collected by or paid to the commission, and shall cover the same
143 into the State Treasury; and all fees and penalties collected



144 under the Mississippi Motor Carrier Regulatory Law of 1938 shall
145 be covered into the Public Service Commission Regulation Fund.

146 (3) The secretary of the commission shall be the custodian
147 of all records, documents, and the seal of the commission. He
148 shall issue all citations, subpoenas and other rightful orders and
149 documents, and perform all other duties usually required of such
150 officer, and as required by the commission.

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

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

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

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

167 77-1-17. The commission is hereby authorized to employ for
168 the term of the commissioners a competent rate expert at a salary



169 fixed by the commission, and an assistant rate expert at a salary
170 fixed by the commission, for the collection of data and evidence
171 for the use of the state in protecting the interest of the state
172 involving duties and obligations of all common carriers, all
173 common carriers by motor vehicle, all restricted common carriers
174 by motor vehicle, and all contract carriers by motor vehicle, and
175 for the establishment of proof in litigation now pending or which
176 may hereafter be instituted.

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

181 Said duties shall also include the checking and investigating
182 of the filing of rate schedules with the commission, and making of
183 reports to the commission respecting tariffs filed by any of the
184 above-mentioned carriers with the commission involving the
185 increase of any rates for movements within the State of
186 Mississippi, and the general checking and reports to the
187 commission affecting any rates increased from points without the
188 State of Mississippi to points within the State of Mississippi,
189 and from points in the State of Mississippi to points without the
190 State of Mississippi. Said rate experts may be discharged by the
191 commission for incompetency or other good cause, but they shall
192 have notice and an opportunity to be heard in respect to any
193 charge for removal.



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

196 77-1-19. The commission is authorized to employ the
197 following additional employees to carry out and enforce the
198 provisions of the Motor Carrier Regulatory Law of 1938:

199 (a) An assistant secretary and two (2)
200 stenographer-clerks;

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

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

204 (d) Twelve (12) additional employees, which includes
205 seven (7) employees to be transferred from the utility department
206 to the motor carrier department to perform the duties of the
207 commission imposed upon it by the provisions of said Motor Carrier
208 Regulatory Law.

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

211 77-1-21. (1) For the purpose of enforcing the provisions of
212 the Mississippi Motor Carrier Regulatory Law of 1938, the
213 Mississippi Department of Transportation is authorized to employ,
214 in addition to personnel already employed by the department, one
215 (1) chief enforcement officer and twenty-one (21) inspectors, who
216 shall be under the management of the department. The chief
217 enforcement officer and the inspectors shall devote their full
218 time to the performance of their duties and shall take an oath



244 (3) The Public Service Commission shall transfer to the
245 Mississippi Department of Transportation each year the amount of
246 funds necessary to support the law enforcement functions being
247 performed for the commission by the department, as specified in
248 the appropriation bill for the Public Service Commission.

249 (4) Any reference in any statute, rule or regulation to law
250 enforcement duties being performed by the Public Service
251 Commission shall be construed to mean law enforcement duties being
252 performed for the commission by the Mississippi Department of
253 Transportation.

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

256 77-1-25. No member of the staff of the commission, or any
257 other person, shall use uniforms, material, or equipment of the
258 commission for private or political purposes. Members of the
259 staff of the commission may be candidates for political office but
260 must take a leave of absence to do so. Members of the staff of
261 the commission may take part in political campaigns other than
262 campaigns for Public Service Commission but may not solicit or
263 receive campaign contributions from regulated utilities. Anyone
264 violating the provisions of this section shall be guilty of a
265 misdemeanor and, upon conviction, shall be punished as provided by
266 law and shall be dismissed from the staff of the commission.

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



269 77-1-27. All commission employees provided for in this
270 chapter, and the reasonable and necessary expenses of the
271 administration of the duties imposed on the commission by the
272 Motor Carrier Regulatory Law of 1938, shall be paid out of the
273 appropriations made to defray the expenses of the commission, upon
274 requisitions and warrants in the same manner provided by law for
275 the disbursements of appropriations for the commission. An
276 itemized account shall be kept of all receipts and expenditures
277 and shall be reported to the Legislature by the commission.

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

280 77-1-29. On or before the twentieth day of each calendar
281 month, the commission shall pay into the State Treasury to the
282 account of the "Public Service Commission Regulation Fund" all
283 monies collected by it during the preceding calendar month,
284 showing from whom collected, when collected and for what purposes
285 collected. All disbursements made by the commission or from the
286 regulation fund for any purposes, other than for salaries provided
287 by law, shall be supported by a detailed and itemized statement
288 approved by the commission for commission disbursements. The
289 commission shall not expend funds from the "Public Service
290 Commission Regulation Fund" to employ personnel whose services
291 would duplicate services provided by any employee of the Public
292 Utilities Staff.



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

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

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

302 77-1-31. The commission shall keep a docket of petitions and
303 complaints, which shall be entered in regular order. The docket
304 shall be called at each regular meeting of the board, and the
305 cases thereon disposed of, or, if necessary, continued until the
306 next meeting.

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

309 77-1-33. In any matter of inquiry pending before the
310 commission or any member thereof, subpoenas for witnesses, and
311 subpoenas duces tecum, may be issued by the secretary, under seal,
312 or by any member without the seal, and shall be executed and
313 returned by any sheriff, constable, or marshal, under the like
314 penalties of law for failure to execute and return the process of
315 the circuit court. If any person duly summoned to appear and
316 testify before the commission, or before any one or more of the
317 commissioners, shall fail or refuse to appear and testify, or to



318 bring and produce, as commanded, any book, paper, or document,
319 without a lawful excuse, or shall refuse to answer any proper
320 question propounded to him by the commission or any of the
321 commissioners, or if any person shall obstruct the commission, or
322 one or more of the commissioners in the discharge of duty, or
323 shall conduct himself in a rude, disrespectful, or disorderly
324 manner before the commission deliberating in the discharge of
325 duty, such witness or person shall be guilty of a misdemeanor,
326 and, upon conviction, shall be fined not more than One Thousand
327 Dollars (\$1,000.00), or be imprisoned in the county jail for a
328 period not exceeding six (6) months, or both.

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

331 77-1-35. The several members of the commission and the
332 secretary may, in the discharge of their duties, administer oaths
333 and take affidavits. The commission and each member thereof may
334 examine witnesses under oath in all matters coming before them.
335 If any person shall testify falsely, or make any false affidavit
336 or oath before the commission, or before any of the commissioners,
337 or before any officer, to any matter coming before the commission,
338 he shall be guilty of perjury, and, upon conviction, shall be
339 punished according to law.

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



342 77-1-37. Witnesses summoned to appear before the commission
343 shall be entitled to the same per diem and mileage as witnesses
344 attending the circuit court. Witnesses summoned by the commission
345 on its behalf shall be paid as are other expenditures of the
346 commission, upon the certificate of the commission showing the
347 amount to which such witness may be entitled. Witnesses summoned
348 for any carrier shall be paid by it.

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

351 77-1-39. In all cases where the testimony of witnesses is
352 given orally before the commission any interested party or the
353 commission shall have the right to have said testimony taken down
354 and transcribed by a stenographer or court reporter, who is not an
355 employee of the commission, to be agreed upon by the parties or
356 appointed by the commission. The stenographer or court reporter
357 so employed shall be duly sworn and his or her certificate that
358 the transcript of such evidence is correct together with the
359 official certificate of any one (1) of the commissioners that he
360 has read the same and that it is in his opinion correct shall
361 entitle such transcript or a certified copy thereof to be received
362 in evidence on any appeal or in any court in this state subject
363 only to any objection that the same is not relevant or material.
364 The stenographer or court reporter shall be paid in accordance
365 with the provisions of Section 9-13-33. The commission shall have



366 the right to require any party demanding an official stenographer
367 to guarantee or prepay the costs thereof in all proper cases.

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

370 77-1-41. All findings of the commission and the
371 determination of every matter by it shall be made in writing and
372 placed upon its minutes. Proof thereof shall be made by a copy of
373 the same duly certified by the secretary under the seal of the
374 commission. Whenever any matter has been determined by the
375 commission, in the course of any proceeding before it the fact of
376 such determination, duly certified, shall be received in all
377 courts and by every officer in civil cases as prima facie evidence
378 that such determination was right and proper. The record of the
379 proceedings of the commission shall be deemed a public record, and
380 shall at all reasonable times be subject to the inspection of the
381 public.

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

384 77-1-43. (1) The commission may apply to the circuit or
385 chancery court, by proper proceeding, for aid in the enforcement
386 of obedience to its process, and to compel compliance with the law
387 and its lawful orders, decisions, and determinations. Said courts
388 shall have jurisdiction to grant aid and relief in such cases,
389 subject to the right of appeal to the Supreme Court by the party
390 aggrieved. The Attorney General, or district attorney in his



391 district, shall institute such proceedings in the name of the
392 commission.

393 (2) Any action for violation of the law, or for the
394 violation of any lawful rule, regulation or order of the
395 commission may be instituted by the commission or by the Attorney
396 General in any court of competent jurisdiction.

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

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

402 77-1-47. Appeals from any final finding, order or judgment
403 of the commission shall be taken and perfected by the filing of a
404 bond in the sum of Five Hundred Dollars (\$500.00) with two (2)
405 sureties, or with a surety company qualified to do business in
406 Mississippi as the surety, conditioned to pay the cost of such
407 appeal. Said bond shall be approved by the chairman or secretary
408 of the commission, or by the judge of the court to which such
409 appeal is taken in case the chairman or secretary of the
410 commission refuses to approve a proper bond tendered to them
411 within the time limited for taking appeals. The commission may
412 grant a supersedeas bond on any appeal, in such penalty and with
413 such surety thereon as it may deem sufficient, and may, during the
414 pendency of any appeal, at any time, require the increase of any
415 such supersedeas bond or additional securities thereon. The judge



416 of the Circuit Court of Hinds County may on petition therefor by
417 any party entitled to an appeal, presented to him within six (6)
418 months of the date of the final finding, order, or judgment of the
419 commission appealed from, award a writ of supersedeas to any such
420 final finding, order, or judgment of the commission, upon the
421 filing of a supersedeas bond in an amount to be fixed by said
422 judge. All appeal bonds for the payment of costs, and all
423 supersedeas bonds, shall be made payable to the state and may be
424 enforced in the name of the state by motion or other legal
425 proceedings or remedy in any circuit court of this state having
426 jurisdiction of a motion or action on such bond, and the process
427 and proceedings thereon shall be as provided by law upon bonds of
428 like character required and taken by any court of this state.
429 Such circuit court may render and enter like judgments upon such
430 bonds as may, by law, be rendered and entered upon bonds of like
431 character, and process of execution shall issue upon such
432 judgments, and may be levied and executed as provided by law in
433 other cases.

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

436 77-1-49. The commission shall make a report every year to
437 the Legislature of all its acts and doings for the preceding
438 fiscal year.

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



441 77-1-51. Sections 77-1-1 through 77-1-49, Mississippi Code
442 of 1972, which create the Public Service Commission and prescribe
443 its powers and duties, shall stand repealed as of December
444 31, * * * 2021.

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

447 77-1-55. (1) The Public Service Commission, with the aid
448 and the assistance of the Public Utilities Staff, shall have the
449 power to monitor, investigate, and seek relief in any appropriate
450 federal forum from all existing or proposed interstate rates,
451 charges, allocations and classifications, and all rules and
452 practices in relation thereto promulgated and prescribed by or for
453 any public utility as defined in Section 77-3-3(d)(i).

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

459 (3) For the purpose of this section, the Public Service
460 Commission and the Executive Director of the Public Utilities
461 Staff may each enter into professional services contracts with one
462 or more attorneys or consultants from a competent, qualified and
463 independent firm as may be required by the commission or the
464 executive director. Costs associated with the professional
465 service contracts shall not exceed One Million Five Hundred



466 Thousand Dollars (\$1,500,000.00) for each agency with respect to
467 each rate regulated affected utility in any twelve-month period.
468 The consultants or counsel shall submit periodically, but no less
469 frequently than once each calendar quarter, to the executive
470 director or the commission, as applicable, for approval of
471 payment, itemized bills detailing the work performed. The
472 executive director or the chairman of the commission, as
473 applicable, shall requisition the applicable public utility to
474 make the requisite payments to such consultants. The commission
475 shall allow the utility to recover both the total costs the
476 utility incurred under this section and the carrying charges for
477 those costs through a rate rider established to recover the costs
478 incurred and carrying charges incurred. Such rider shall include
479 a true-up provision to ensure actual recovery of costs paid or
480 otherwise incurred by the utility.

481 (4) This section shall stand repealed from and after July
482 1, * * * 2021.

483 **SECTION 24.** This act shall take effect and be in force from
484 and after July 1, 2018.

