

4/18/16

10:57 A.M.

Chapter No. 436  
16/HR43/R1618SG  
AM /EW

# ***HOUSE BILL NO. 1138***

Originated in House

A handwritten signature in black ink, appearing to read "Andrew H. ...", written over a horizontal line.

Clerk

HOUSE BILL NO. 1138

AN ACT TO CREATE NEW SECTION 77-5-256, MISSISSIPPI CODE OF 1972, TO PROVIDE ADDITIONAL PROVISIONS APPLICABLE TO GENERATION AND TRANSMISSION COOPERATIVES UNDER THE ELECTRIC POWER ASSOCIATION LAW; TO PROVIDE FOR THE AMENDMENT OF A COOPERATIVE'S CERTIFICATE OF INCORPORATION; TO PROVIDE FOR A BOARD OF DIRECTORS AND ITS MEMBERSHIP; TO PROVIDE FOR THE GENERAL POWERS OF THE COOPERATIVE; AND FOR RELATED PURPOSES.

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

**SECTION 1.** The following shall be codified as Section 77-5-256, Mississippi Code of 1972:

77-5-256. (1) As used herein, the phrase "generation and transmission cooperative" or "G&T cooperative" shall mean a corporation that is formed under this article for the primary purpose of providing wholesale power supply to its members as a wholesale power supply cooperative, and whose membership is comprised of a group of corporations that are formed under this article and have certificates of public convenience and necessity providing the exclusive right and authority to provide retail electric service within their respective certificated service territories.

(2) The following additional provisions apply to G&T cooperatives:

(a) A G&T cooperative may amend its certificate of incorporation to change its corporate name, to increase or reduce the number of its directors, or to change any other provisions therein. Notwithstanding any provisions of a G&T cooperative's certificate of incorporation to the contrary and notwithstanding any provisions of Section 77-5-215, a G&T cooperative may amend its certificate of incorporation if the amendment is authorized by the board of directors of the G&T cooperative pursuant to the affirmative vote of at least two-thirds (2/3) of the directors. In the event an amendment is authorized in accordance with the foregoing, a certificate reflecting the amendment to the certificate of incorporation shall be prepared and executed by the president and by the secretary of the G&T cooperative who shall both affirm therein, under oath, that they have been authorized by the G&T cooperative to execute and file such certificate. Such certificate of amendment shall then be filed by the G&T cooperative in the Office of the Secretary of State, who shall forthwith cause this certificate to be handled in the manner prescribed in Section 77-5-211 for original certificates of incorporation; and the amendment of the G&T cooperative's certificate or articles of incorporation shall be effective as of the date on which the certificate of amendment is filed with the Secretary of State, and the powers specified in the certificate of

amendment shall thereupon be vested in the G&T cooperative without further formalities.

(b) A G&T cooperative shall have a board of directors, and the powers of the G&T cooperative shall be vested in and exercised by such board of directors. The directors of the G&T cooperative, other than those named in a certificate of incorporation, shall be elected by the members of the G&T cooperative. The board of directors shall include two (2) directors from each member of the G&T cooperative, with one of those directors being the general manager or chief executive of the member and the other being a sitting director on the member's board of directors. The bylaws of a G&T cooperative may also provide for up to three (3) at-large directors to be elected by sitting members of the board of directors, with such qualifications to be an at-large director within the discretion of the board of directors. All directors shall be elected for a term of three (3) years, or for such other term(s) as may be prescribed by the corporation's certificate of incorporation. The directors shall be entitled to reimbursement for expenses incurred by them in the performance of their duties. In addition to causing the G&T cooperative to reimburse directors for expenses, the board may authorize compensation and benefits to be paid to and on behalf of such directors for the performance of their duties including for the time it takes for them to travel to and from meetings and to board functions. The board shall elect periodically from its own

number officers as prescribed by the corporation's bylaws. Directors may elect to attend the board meetings by telephone or video conference. The board may set procedures by which its meetings will be conducted and rule will be by majority vote except where a super majority is required by its articles of incorporation or bylaws.

(c) The corporate purpose of a G&T cooperative shall be to render service primarily to its members. After initial incorporation, any corporation formed or operating under this article may become and remain a member if such corporation is accepted into membership by a unanimous vote of the board of directors and complies with the terms and conditions in respect to membership contained in the bylaws of such G&T cooperative. The membership fee of the G&T cooperative shall be fixed by the board of directors. A G&T cooperative may provide capacity, energy, or transmission to a regional transmission market, and independent system operator, or other similar organized market, to the extent provision of such service is expected to provide a direct or indirect benefit to the G&T cooperative's membership. A G&T cooperative has the power to operate across state lines.

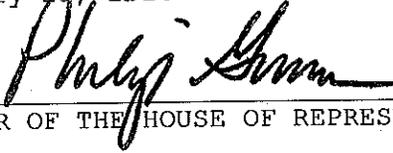
(d) A G&T cooperative has the power to provide support to its members in their operations, including, but not limited to, accounting, legal, regulatory, engineering, and other areas in which its members determine it is desirable for the generation and transmission corporation to house certain expertise.

(e) These provisions are in addition to those applicable to corporations formed or operating under this article that are not G&T cooperatives and are not to be construed as limitations on the powers or authorities of G&T cooperatives in comparison to corporations that are not G&T cooperatives.

(f) It is hereby recognized that generation and transmission cooperatives are subject to rules, regulations and requirements from the Rural Utilities Service, the Federal Energy Regulatory Commission, and the North American Electric Reliability Corporation, as well as the rules and requirements of regional transmission organizations to which they belong and to competitive pressures from the wholesale market. In order to clarify the extent to which a generation and transmission cooperative is subject to regulation by the Mississippi Public Service Commission pursuant to Section 77-3-5, the Legislature declares that a generation and transmission cooperative is only subject to the provisions of Sections 77-3-11, 77-3-13, 77-3-14, 77-3-23, 77-3-25 and 77-3-27, and also subject to the provisions of Section 77-3-45, and any rules promulgated thereby to the extent such rules are necessary for the Mississippi Public Service Commission to carry out its responsibilities under such code sections. The policy objectives identified in Section 77-3-2 and the definitions provided in Section 77-3-3 shall be applicable to such code sections listed above as applied to generation and transmission cooperatives.

**SECTION 2.** This act shall take effect and be in force from and after July 1, 2016.

PASSED BY THE HOUSE OF REPRESENTATIVES  
February 29, 2016



SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE  
March 28, 2016



PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR



GOVERNOR

April 18, 2016

10:57 AM