

By: Representative Saucier

To: Transportation

HOUSE BILL NO. 629

1 AN ACT TO AMEND SECTION 65-1-8, MISSISSIPPI CODE OF 1972, TO
2 REQUIRE THE MISSISSIPPI TRANSPORTATION COMMISSION TO COOPERATE
3 WITH THE MISSISSIPPI FORESTRY COMMISSION AND THE SCHOOL OF
4 FORESTRY, MISSISSIPPI STATE UNIVERSITY, IN A FORESTRY MANAGEMENT
5 PROGRAM FOR TIMBER UPON THE RIGHT-OF-WAY OF CERTAIN HIGHWAYS; TO
6 AMEND SECTION 65-1-123, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
7 CERTAIN SURPLUS TIMBER UPON HIGHWAY RIGHTS-OF-WAY SHALL BE
8 ACQUIRED AND SOLD BY THE MISSISSIPPI FORESTRY COMMISSION AND THE
9 PROCEEDS USED FOR SUPPORT OF THE MISSISSIPPI FORESTRY COMMISSION;
10 AND FOR RELATED PURPOSES.

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

12 SECTION 1. Section 65-1-8, Mississippi Code of 1972, is
13 amended as follows:

14 65-1-8. (1) The Mississippi Transportation Commission shall
15 have the following general powers, duties and responsibilities:

16 (a) To coordinate and develop a comprehensive, balanced
17 transportation policy for the State of Mississippi;

18 (b) To promote the coordinated and efficient use of all
19 available and future modes of transportation;

20 (c) To make recommendations to the Legislature
21 regarding alterations or modifications in any existing
22 transportation policies;

23 (d) To study means of encouraging travel and
24 transportation of goods by the combination of motor vehicle and
25 other modes of transportation;

26 (e) To take such actions as are necessary and proper to
27 discharge its duties pursuant to the provisions of Laws, 1992,
28 Chapter 496, and any other provision of law;

29 (f) To receive and provide for the expenditure of any
30 funds made available to it by the Legislature, the federal

31 government, or any other source.

32 (2) In addition to the general powers, duties and
33 responsibilities listed in subsection (1) of this section, the
34 Mississippi Transportation Commission shall have the following
35 specific powers:

36 (a) To make rules and regulations whereby the
37 transportation department shall change or relocate any and all
38 highways herein or hereafter fixed as constituting a part of the
39 state highway system, as may be deemed necessary or economical in
40 the construction or maintenance thereof; to acquire by gift,
41 purchase, condemnation, or otherwise, land or other property
42 whatsoever that may be necessary for a state highway system as
43 herein provided, with full consideration to be given to the
44 stimulation of local public and private investment when acquiring
45 such property in the vicinity of Mississippi towns, cities and
46 population centers;

47 (b) To enforce by mandamus, or other proper legal
48 remedies, all legal rights or rights of action of the Mississippi
49 Transportation Commission with other public bodies, corporations
50 or persons;

51 (c) To make and publish rules, regulations and
52 ordinances for the control of and the policing of the traffic on
53 the state highways, and to prevent their abuse by any or all
54 persons, natural or artificial, by trucks, tractors, trailers or
55 any other heavy or destructive vehicles or machines, or by any
56 other means whatsoever, by establishing weights of loads or of
57 vehicles, types of tires, width of tire surfaces, length and width
58 of vehicles, with reasonable variations to meet approximate
59 weather conditions, and all other proper police and protective
60 regulations, and to provide ample means for the enforcement of
61 same. The violation of any of the rules, regulations or
62 ordinances so prescribed by the commission shall constitute a
63 misdemeanor. No rule, regulation or ordinance shall be made that

64 conflicts with any statute now in force or which may hereafter be
65 enacted, or with any ordinance of municipalities. A monthly
66 publication giving general information to the boards of
67 supervisors, employees and the public may be issued under such
68 rules and regulations as the commission may determine;

69 (d) To give suitable numbers to highways and to change
70 the number of any highway that shall become a part of the state
71 highway system. However, nothing herein shall authorize the
72 number of any highway to be changed so as to conflict with any
73 designation thereof as a United States numbered highway. Where,
74 by a specific act of the Legislature, the commission has been
75 directed to give a certain number to a highway, the commission
76 shall not have the authority to change such number;

77 (e) To make proper and reasonable rules, regulations,
78 and ordinances for the placing, erection, removal or relocation of
79 telephone, telegraph or other poles, signboards, fences, gas,
80 water, sewerage, oil or other pipelines, and other obstructions
81 that may, in the opinion of the commission, contribute to the
82 hazards upon any of the state highways, or in any way interfere
83 with the ordinary travel upon such highways, or the construction,
84 reconstruction or maintenance thereof, and to make reasonable
85 rules and regulations for the proper control thereof. Any
86 violation of such rules or regulations or noncompliance with such
87 ordinances shall constitute a misdemeanor.

88 Whenever the order of the commission shall require the
89 removal of, or other changes in the location of telephone,
90 telegraph, or other poles, signboards, gas, water, sewerage, oil
91 or other pipelines; or other similar obstructions on the
92 right-of-way or such other places where removal is required by
93 law, the owners thereof shall at their own expense move or change
94 the same to conform to the order of the commission. Any violation
95 of such rules or regulations or noncompliance with such orders
96 shall constitute a misdemeanor;

97 (f) To regulate and abandon grade crossings on any road
98 fixed as a part of the state highway system, and whenever the
99 commission, in order to avoid a grade crossing with the railroad,
100 locates or constructs said road on one side of the railroad, the
101 commission shall have the power to abandon and close such grade
102 crossing, and whenever an underpass or overhead bridge is
103 substituted for a grade crossing, the commission shall have power
104 to abandon such grade crossing and any other crossing adjacent
105 thereto. Included in the powers herein granted shall be the power
106 to require the railroad at grade crossings, where any road of the
107 state highway system crosses the same, to place signal posts with
108 lights or other warning devices at such crossings at the expense
109 of the railroad, and to regulate and abandon underpass or overhead
110 bridges and, where abandoned because of the construction of a new
111 underpass or overhead bridge, to close such old underpass or
112 overhead bridge, or, in its discretion, to return the same to the
113 jurisdiction of the county board of supervisors;

114 (g) To make proper and reasonable rules and regulations
115 to control the cutting or opening of the road surfaces for
116 subsurface installations;

117 (h) To make proper and reasonable rules and regulations
118 for the removal from the public rights-of-way of any form of
119 obstruction, to cooperate in improving their appearance, and to
120 prescribe minimum clearance heights for seed conveyors, pipes,
121 passageways or other structure of private or other ownership above
122 the highways;

123 (i) To establish, and have the Transportation
124 Department maintain and operate, and to cooperate with the state
125 educational institutions in establishing, enlarging, maintaining
126 and operating a laboratory or laboratories for testing materials
127 and for other proper highway purposes;

128 (j) To provide, under the direction and with the
129 approval of the Department of Finance and Administration, suitable

130 offices, shops and barns in the City of Jackson;

131 (k) To establish and have enforced set-back
132 regulations;

133 (l) To cooperate with proper state authorities in
134 producing limerock for highway purposes and to purchase same at
135 cost;

136 (m) To provide for the purchase of necessary equipment
137 and vehicles and to provide for the repair and housing of same, to
138 acquire by gift, purchase, condemnation or otherwise, land or
139 lands and buildings in fee simple, and to authorize the
140 Transportation Department to construct, lease or otherwise provide
141 necessary and proper permanent district offices for the
142 construction and maintenance divisions of the department, and for
143 the repair and housing of the equipment and vehicles of the
144 department; however, in each Supreme Court district only two (2)
145 permanent district offices shall be set up, but a permanent status
146 shall not be given to any such offices until so provided by act of
147 the Legislature and in the meantime, all shops of the department
148 shall be retained at their present location. As many local or
149 subdistrict offices, shops or barns may be provided as is
150 essential and proper to economical maintenance of the state
151 highway system;

152 (n) To cooperate with the Department of Archives and
153 History in having placed and maintained suitable historical
154 markers, including those which have been approved and purchased by
155 the State Historical Commission, along state highways, and to have
156 constructed and maintained roadside driveways for convenience and
157 safety in viewing them when necessary; however, no highway or
158 bridge shall ever be memorialized to a man while living;

159 (o) To cooperate, in its discretion, with the
160 Mississippi Department of Wildlife, Fisheries and Parks in
161 planning and constructing roadside parks upon the right-of-way of
162 state highways, whether constructed, under construction, or

163 planned; said parks to utilize where practical barrow pits used in
164 construction of state highways for use as fishing ponds. Said
165 parks shall be named for abundant flora and fauna existing in the
166 area or for the first flora or fauna found on the site;

167 (p) Unless otherwise prohibited by law, to make such
168 contracts and execute such instruments containing such reasonable
169 and necessary appropriate terms, provisions and conditions as in
170 its absolute discretion it may deem necessary, proper or
171 advisable, for the purpose of obtaining or securing financial
172 assistance, grants or loans from the United States of America or
173 any department or agency thereof, including contracts with several
174 counties of the state pertaining to the expenditure of such funds;

175 (q) To cooperate with the Federal Highway
176 Administration in the matter of location, construction and
177 maintenance of the Great River Road, to expend such funds paid to
178 the commission by the Federal Highway Administration or other
179 federal agency, and to authorize the Transportation Department to
180 erect suitable signs marking this highway, the cost of such signs
181 to be paid from state highway funds other than earmarked
182 construction funds;

183 (r) To cooperate * * * with the Mississippi Forestry
184 Commission and the School of Forestry, Mississippi State
185 University, in a forestry management program, including planting,
186 thinning, cutting and selling, upon the right-of-way of any
187 highway, constructed, acquired or maintained by the Transportation
188 Department, and to assist the Mississippi Forestry Commission in
189 the selling and disposing of any and all growing timber standing,
190 lying or being on any right-of-way acquired by the commission for
191 highway purposes in the future; such sale or sales to be made in
192 accordance with the sale of personal property which has become
193 unnecessary for public use as provided for in Section 65-1-123,
194 Mississippi Code of 1972;

195 (s) To expend funds in cooperation with the Division of

196 Plant Industry, Mississippi Department of Agriculture and
197 Commerce, the United States Government or any department or agency
198 thereof, or with any department or agency of this state, to
199 control, suppress or eradicate serious insect pests, rodents,
200 plant parasites and plant diseases on the state highway
201 rights-of-way;

202 (t) To provide for the placement, erection and
203 maintenance of motorist services business signs and supports
204 within state highway rights-of-way in accordance with current
205 state and federal laws and regulations governing the placement of
206 traffic control devices on state highways, and to establish and
207 collect reasonable fees from the businesses having information on
208 such signs;

209 (u) To request and to accept the use of persons
210 convicted of an offense, whether a felony or a misdemeanor, for
211 work on any road construction, repair or other project of the
212 Transportation Department. The commission is also authorized to
213 request and to accept the use of persons who have not been
214 convicted of an offense but who are required to fulfill certain
215 court-imposed conditions pursuant to Section 41-29-150(d)(1) or
216 99-15-26, Mississippi Code of 1972, or the Pretrial Intervention
217 Act, being Sections 99-15-101 through 99-15-127, Mississippi Code
218 of 1972. The commission is authorized to enter into any
219 agreements with the Department of Corrections, the State Parole
220 Board, any criminal court of this state, and any other proper
221 official regarding the working, guarding, safekeeping, clothing
222 and subsistence of such persons performing work for the
223 Transportation Department. Such persons shall not be deemed
224 agents, employees or involuntary servants of the Transportation
225 Department while performing such work or while going to and from
226 work or other specified areas;

227 (v) To provide for the administration of the railroad
228 revitalization program pursuant to Section 57-43-1, et seq.;

229 (w) The Mississippi Transportation Commission is
230 further authorized, in its discretion, to expend funds for the
231 purchase of service pins for employees of the Mississippi
232 Transportation Department;

233 (x) To cooperate with the State Tax Commission by
234 providing for weight enforcement field personnel to collect and
235 assess taxes, fees and penalties and to perform all duties as
236 required pursuant to Sections 27-19-1 et seq., 27-55-1 et seq.,
237 27-57-301 et seq., 27-59-1 et seq. and 27-61-1 et seq.,
238 Mississippi Code of 1972, with regard to vehicles subject to the
239 jurisdiction of the Office of Weight Enforcement. All collections
240 and assessments shall be transferred daily to the State Tax
241 Commission;

242 (y) The Mississippi Transportation Commission may
243 delegate the authority to enter into a supplemental agreement to a
244 contract previously approved by the commission if the supplemental
245 agreement involves an additional expenditure not to exceed One
246 Hundred Thousand Dollars (\$100,000.00).

247 SECTION 2. Section 65-1-123, Mississippi Code of 1972, is
248 amended as follows:

249 65-1-123. (1) Except as otherwise provided herein, whenever
250 any personal property has been acquired in any manner by the
251 Mississippi Transportation Commission for public use and in the
252 opinion of the commission, all or any part of the property becomes
253 unnecessary for public use, the commission is authorized to
254 dispose of such property for a fair and reasonable cash market
255 price. Any such sale shall be a sale upon the receipt of sealed
256 bids after reasonable advertisement for bids in such manner and at
257 such time and place as the commission may deem proper and
258 advisable, except that the commission may sell at private sale any
259 such personal property not necessary for public purposes the cash
260 market value of which is less than Five Hundred Dollars (\$500.00);
261 however, if the personal property is timber, except for timber on

262 highway rights-of-way, the commission may sell at private sale any
263 such timber not necessary for public purposes the cash market
264 value of which is less than Five Thousand Dollars
265 (\$5,000.00) * * *. Timber from highway rights-of-way shall be
266 acquired and sold in accordance with Section 49-19-5 by the State
267 Forestry Commission. The commission shall have the right to
268 reject any and all bids in its discretion and to sell the property
269 theretofore advertised at private sale for not less than the
270 highest of the rejected bids, or to readvertise.

271 (2) Except as otherwise provided in subsections (3) and (4)
272 of this section, whenever real property, with the exception of
273 easements for highway purposes, has been acquired by the
274 Mississippi Transportation Commission, in any manner, for public
275 use and in the opinion of the commission all or any part thereof
276 becomes unnecessary for public use, the same shall be declared on
277 the minutes of the commission as excess property and shall be sold
278 at private sale at market value. If the excess property was a
279 total take from the original owner, then the commission shall
280 offer to such owner, in writing, the first right of refusal to
281 purchase such excess property; however, if after due diligence the
282 original owner cannot be located, then the commission shall offer
283 the first right of refusal to purchase the property to the
284 adjoining property owner or owners. If the excess property was a
285 partial take from the current owner of the parcel of real property
286 from which the excess property was originally taken, then the
287 commission shall be required to offer in writing the first right
288 of refusal to purchase such excess property to such owner. If
289 within forty-five (45) days any owner to whom the commission has
290 offered the first right of refusal under the provisions of this
291 subsection fails to accept the offer to purchase, the property
292 shall then be offered to the adjoining property owner or owners.
293 If within forty-five (45) days an adjoining property owner fails
294 to accept the offer to purchase, then the excess property shall be

295 sold to the highest bidder upon the receipt by the commission of
296 sealed bids after reasonable advertisement for bids in such manner
297 and at such time and place as the commission deems proper and
298 advisable; however, the commission shall have the right to reject
299 any and all bids in its discretion and to sell the property
300 theretofore advertised at private sale for not less than the
301 highest of the rejected bids, or to readvertise. Upon payment of
302 the purchase price, the executive director of the department, upon
303 due authorization by the commission entered on its minutes, may
304 execute a quitclaim deed conveying such property to the purchaser.

305 (3) Whenever the commission acquires by fee simple interest
306 any property determined to be an uneconomic remnant outside the
307 right-of-way, then the commission may sell the property to the
308 adjoining property owner or owners for an amount not less than the
309 market value established by the county tax assessor or a state
310 licensed or certified appraiser.

311 (4) Whenever the commission desires to sell any real
312 property used as maintenance lots, the property shall be sold to
313 the highest bidder upon the receipt by the commission of sealed
314 bids and after reasonable advertisement for bids in such manner
315 and at such time and place as the commission deems proper and
316 advisable; however, the commission, in its discretion, may reject
317 any and all bids and sell the property advertised at private sale
318 for not less than the highest of the rejected bids, or may
319 readvertise. Upon payment of the purchase price, the executive
320 director of the department, upon authorization by the commission
321 entered on its minutes, may execute a quitclaim deed conveying the
322 property to the purchaser.

323 (5) All easements for highway purposes shall be released
324 when they are determined on the minutes of the commission as no
325 longer needed for such purposes, and when released, they shall be
326 filed by the department in the office of the chancery clerk in the
327 county where the property is located.

328 (6) In no instance shall any part of any property acquired
329 by the commission, or any interest acquired in such property,
330 including but not limited to easements, be construed as abandoned
331 by nonuse, nor shall any encroachment on such property for any
332 length of time constitute estoppel or adverse possession against
333 the state's interests.

334 (7) It is the intent of the Legislature that the
335 Transportation Commission shall declare property it has acquired
336 and which is no longer needed for public purposes as excess and to
337 sell and/or dispose of such excess property in accordance with the
338 provisions of this section as soon as practicable after such
339 property becomes excess in fact. Unnecessary or excess property
340 or property interests shall be disposed of only upon order of the
341 Transportation Commission on its minutes as provided in this
342 section.

343 (8) Whenever any real property has been acquired by the
344 Transportation Commission and in the opinion of the commission all
345 or any part of the property will not be utilized in the near
346 future, the property shall be so declared by the Transportation
347 Commission on its minutes and the commission may lease or rent the
348 property for its market value.

349 SECTION 3. This act shall take effect and be in force from
350 and after July 1, 1999.