

By: Representatives Bowles, Clarke,
Frierson, Horne, Stevens

To: Transportation

HOUSE BILL NO. 1076

1 AN ACT TO AMEND SECTION 65-1-123, MISSISSIPPI CODE OF 1972,
2 TO REQUIRE THAT TRANSPORTATION COMMISSION SALES OF EXCESS PROPERTY
3 MADE AT PUBLIC BID BE WITNESSED BY TWO WITNESSES; TO REQUIRE THAT
4 TRANSPORTATION COMMISSION PRIVATE SALES OF STRUCTURES BE MADE ONLY
5 UPON OBTAINING BIDS FROM AT LEAST THREE BIDDERS; AND FOR RELATED
6 PURPOSES.

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

8 SECTION 1. Section 65-1-123, Mississippi Code of 1972, is
9 amended as follows:

10 65-1-123. (1) Whenever any personal property has been
11 acquired in any manner by the Mississippi Transportation
12 Commission for public use and in the opinion of the commission,
13 all or any part of the property becomes unnecessary for public
14 use, the commission is authorized to dispose of such property for
15 a fair and reasonable cash market price. Any such sale shall be a
16 sale upon the receipt of sealed bids after reasonable
17 advertisement for bids in such manner and at such time and place
18 as the commission may deem proper and advisable. The commission
19 shall require that all sealed bids be opened in the presence of
20 two (2) witnesses, who shall provide dated, written certification
21 to the effect that they witnessed the opening of the bids. The
22 commission may sell at private sale any such personal property not
23 necessary for public purposes the cash market value of which is
24 less than Five Hundred Dollars (\$500.00); however, if the personal
25 property is timber, the commission may sell at private sale any
26 such timber not necessary for public purposes the cash market
27 value of which is less than Five Thousand Dollars (\$5,000.00),
28 except that whenever persons, groups or agencies are permitted to

29 remove a quantity of timber from highway rights-of-way, and the
30 cash market value of the timber is estimated by the commission to
31 be less than One Thousand Dollars (\$1,000.00), it shall not be
32 necessary to have the timber cruised or appraised and the
33 commission may sell the timber at private sale. The commission
34 shall have the right to reject any and all bids in its discretion
35 and to sell the property theretofore advertised at private sale
36 for not less than the highest of the rejected bids, or to
37 readvertise. Any private sale of structures may be made only
38 after the agents of the commission obtain bids from at least three
39 (3) bidders.

40 (2) Except as otherwise provided in subsections (3) and (4)
41 of this section, whenever real property, with the exception of
42 easements for highway purposes, has been acquired by the
43 Mississippi Transportation Commission, in any manner, for public
44 use and in the opinion of the commission all or any part thereof
45 becomes unnecessary for public use, the same shall be declared on
46 the minutes of the commission as excess property and shall be sold
47 at private sale at market value. If the excess property was a
48 total take from the original owner, then the commission shall
49 offer to such owner, in writing, the first right of refusal to
50 purchase such excess property; however, if after due diligence the
51 original owner cannot be located, then the commission shall offer
52 the first right of refusal to purchase the property to the
53 adjoining property owner or owners. If the excess property was a
54 partial take from the current owner of the parcel of real property
55 from which the excess property was originally taken, then the
56 commission shall be required to offer in writing the first right
57 of refusal to purchase such excess property to such owner. If
58 within forty-five (45) days any owner to whom the commission has
59 offered the first right of refusal under the provisions of this
60 subsection fails to accept the offer to purchase, the property
61 shall then be offered to the adjoining property owner or owners.
62 If within forty-five (45) days an adjoining property owner fails
63 to accept the offer to purchase, then the excess property shall be
64 sold to the highest bidder upon the receipt by the commission of
65 sealed bids after reasonable advertisement for bids in such manner

66 and at such time and place as the commission deems proper and
67 advisable; however, the commission shall have the right to reject
68 any and all bids in its discretion and to sell the property
69 theretofore advertised at private sale for not less than the
70 highest of the rejected bids, or to readvertise. Upon payment of
71 the purchase price, the executive director of the department, upon
72 due authorization by the commission entered on its minutes, may
73 execute a quitclaim deed conveying such property to the purchaser.

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

80 (4) Whenever the commission desires to sell any real
81 property used as maintenance lots, the property shall be sold to
82 the highest bidder upon the receipt by the commission of sealed
83 bids and after reasonable advertisement for bids in such manner
84 and at such time and place as the commission deems proper and
85 advisable; however, the commission, in its discretion, may reject
86 any and all bids and sell the property advertised at private sale
87 for not less than the highest of the rejected bids, or may
88 readvertise. Upon payment of the purchase price, the executive
89 director of the department, upon authorization by the commission
90 entered on its minutes, may execute a quitclaim deed conveying the
91 property to the purchaser.

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

97 (6) In no instance shall any part of any property acquired
98 by the commission, or any interest acquired in such property,

99 including but not limited to easements, be construed as abandoned
100 by nonuse, nor shall any encroachment on such property for any
101 length of time constitute estoppel or adverse possession against
102 the state's interests.

103 (7) It is the intent of the Legislature that the
104 Transportation Commission shall declare property it has acquired
105 and which is no longer needed for public purposes as excess and to
106 sell and/or dispose of such excess property in accordance with the
107 provisions of this section as soon as practicable after such
108 property becomes excess in fact. Unnecessary or excess property
109 or property interests shall be disposed of only upon order of the
110 Transportation Commission on its minutes as provided in this
111 section.

112 (8) Whenever any real property has been acquired by the
113 Transportation Commission and in the opinion of the commission all
114 or any part of the property will not be utilized in the near
115 future, the property shall be so declared by the Transportation
116 Commission on its minutes and the commission may lease or rent the
117 property for its market value.

118 SECTION 2. This act shall take effect and be in force from
119 and after July 1, 1999.