

By: Fleming

To: Transportation

HOUSE BILL NO. 113

1 AN ACT TO AMEND SECTION 65-1-8, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT CERTAIN RAILROAD GRADE CROSSINGS ON STATE HIGHWAYS
3 WITHIN MUNICIPALITIES WHICH THE MISSISSIPPI TRANSPORTATION
4 COMMISSION DETERMINES SHOULD BE ABANDONED MAY CONTINUE TO BE USED
5 IF THE GOVERNING AUTHORITIES OF THE MUNICIPALITY AGREE TO
6 CONSTRUCT, UPDATE AND MAINTAIN THE CROSSINGS IN A SAFE AND
7 REASONABLE MANNER AND TO INSTALL SUCH SIGNS, SIGNALS, GATES OR
8 WARNING DEVICES AS THE TRANSPORTATION COMMISSION MAY REQUIRE; AND
9 FOR RELATED PURPOSES.

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

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

13 65-1-8. (1) The Mississippi Transportation Commission shall
14 have the following general powers, duties and responsibilities:

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

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

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

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

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

28 (f) To receive and provide for the expenditure of any
29 funds made available to it by the Legislature, the federal
30 government, or any other source.

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

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

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

50 (c) To make and publish rules, regulations and
51 ordinances for the control of and the policing of the traffic on
52 the state highways, and to prevent their abuse by any or all
53 persons, natural or artificial, by trucks, tractors, trailers or
54 any other heavy or destructive vehicles or machines, or by any
55 other means whatsoever, by establishing weights of loads or of

56 vehicles, types of tires, width of tire surfaces, length and width
57 of vehicles, with reasonable variations to meet approximate
58 weather conditions, and all other proper police and protective
59 regulations, and to provide ample means for the enforcement of
60 same. The violation of any of the rules, regulations or
61 ordinances so prescribed by the commission shall constitute a
62 misdemeanor. No rule, regulation or ordinance shall be made that
63 conflicts with any statute now in force or which may hereafter be
64 enacted, or with any ordinance of municipalities. A monthly
65 publication giving general information to the boards of
66 supervisors, employees and the public may be issued under such
67 rules and regulations as the commission may determine;

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

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

84 rules and regulations for the proper control thereof. Any
85 violation of such rules or regulations or noncompliance with such
86 ordinances shall constitute a misdemeanor.

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

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

112 jurisdiction of the county board of supervisors. If the
113 Transportation Commission determines that a railroad grade
114 crossing on a state highway that runs through an incorporated
115 municipality should be abandoned, the grade crossing may continue
116 in use and shall not be abandoned if the governing authorities of
117 the municipality, by resolution duly adopted and entered on their
118 minutes, agree to construct, update and maintain the crossing in a
119 safe and reasonable manner and to install such signs, signals,
120 gates or warning devices as the Transportation Commission may
121 require. If the Transportation Commission requires the
122 installation of gates or warning devices, it shall provide
123 available federal funds to defray at least ten percent (10%) of
124 the costs associated with such installation. If the governing
125 authorities of a municipality adopt a resolution agreeing to
126 construct, update and maintain a railroad grade crossing and to
127 install appropriate signs, signals and warning devices as required
128 by the Transportation Commission, then a railroad company shall
129 not be liable for any injury, loss or damage arising out of the
130 failure of the municipality to perform such duties in a safe and
131 reasonable manner;

132 (g) To make proper and reasonable rules and regulations
133 to control the cutting or opening of the road surfaces for
134 subsurface installations;

135 (h) To make proper and reasonable rules and regulations
136 for the removal from the public rights-of-way of any form of
137 obstruction, to cooperate in improving their appearance, and to
138 prescribe minimum clearance heights for seed conveyors, pipes,
139 passageways or other structure of private or other ownership above

140 the highways;

141 (i) To establish, and have the Transportation
142 Department maintain and operate, and to cooperate with the state
143 educational institutions in establishing, enlarging, maintaining
144 and operating a laboratory or laboratories for testing materials
145 and for other proper highway purposes;

146 (j) To provide, under the direction and with the
147 approval of the Department of Finance and Administration, suitable
148 offices, shops and barns in the City of Jackson;

149 (k) To establish and have enforced set-back
150 regulations;

151 (l) To cooperate with proper state authorities in
152 producing limerock for highway purposes and to purchase same at
153 cost;

154 (m) To provide for the purchase of necessary equipment
155 and vehicles and to provide for the repair and housing of same, to
156 acquire by gift, purchase, condemnation or otherwise, land or
157 lands and buildings in fee simple, and to authorize the
158 transportation department to construct, lease or otherwise provide
159 necessary and proper permanent district offices for the
160 construction and maintenance divisions of the department, and for
161 the repair and housing of the equipment and vehicles of the
162 department; however, in each Supreme Court district only two (2)
163 permanent district offices shall be set up, but a permanent status
164 shall not be given to any such offices until so provided by act of
165 the Legislature and in the meantime, all shops of the department
166 shall be retained at their present location. As many local or
167 subdistrict offices, shops or barns may be provided as is

168 essential and proper to economical maintenance of the state
169 highway system;

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

177 (o) To cooperate, in its discretion, with the
178 Mississippi Department of Wildlife, Fisheries and Parks in
179 planning and constructing roadside parks upon the right-of-way of
180 state highways, whether constructed, under construction, or
181 planned; said parks to utilize where practical barrow pits used in
182 construction of state highways for use as fishing ponds. Said
183 parks shall be named for abundant flora and fauna existing in the
184 area or for the first flora or fauna found on the site;

185 (p) Unless otherwise prohibited by law, to make such
186 contracts and execute such instruments containing such reasonable
187 and necessary appropriate terms, provisions and conditions as in
188 its absolute discretion it may deem necessary, proper or
189 advisable, for the purpose of obtaining or securing financial
190 assistance, grants or loans from the United States of America or
191 any department or agency thereof, including contracts with several
192 counties of the state pertaining to the expenditure of such funds;

193 (q) To cooperate with the Federal Highway
194 Administration in the matter of location, construction and
195 maintenance of the Great River Road, to expend such funds paid to

196 the commission by the Federal Highway Administration or other
197 federal agency, and to authorize the transportation department to
198 erect suitable signs marking this highway, the cost of such signs
199 to be paid from state highway funds other than earmarked
200 construction funds;

201 (r) To cooperate, in its discretion, with the
202 Mississippi Forestry Commission and the School of Forestry,
203 Mississippi State University, in a forestry management program,
204 including planting, thinning, cutting and selling, upon the
205 right-of-way of any highway, constructed, acquired or maintained
206 by the transportation department, and to sell and dispose of any
207 and all growing timber standing, lying or being on any
208 right-of-way acquired by the commission for highway purposes in
209 the future; such sale or sales to be made in accordance with the
210 sale of personal property which has become unnecessary for public
211 use as provided for in Section 65-1-123, Mississippi Code of 1972;

212 (s) To expend funds in cooperation with the Division of
213 Plant Industry, Mississippi Department of Agriculture and
214 Commerce, the United States government or any department or agency
215 thereof, or with any department or agency of this state, to
216 control, suppress or eradicate serious insect pests, rodents,
217 plant parasites and plant diseases on the state highway
218 rights-of-way;

219 (t) To provide for the placement, erection and
220 maintenance of motorist services business signs and supports
221 within state highway rights-of-way in accordance with current
222 state and federal laws and regulations governing the placement of
223 traffic control devices on state highways, and to establish and

224 collect reasonable fees from the businesses having information on
225 such signs;

226 (u) To request and to accept the use of persons
227 convicted of an offense, whether a felony or a misdemeanor, for
228 work on any road construction, repair or other project of the
229 Transportation Department. The commission is also authorized to
230 request and to accept the use of persons who have not been
231 convicted of an offense but who are required to fulfill certain
232 court-imposed conditions pursuant to Section 41-29-150(d)(1) or
233 99-15-26, Mississippi Code of 1972, or the Pretrial Intervention
234 Act, being Sections 99-15-101 through 99-15-127, Mississippi Code
235 of 1972. The commission is authorized to enter into any
236 agreements with the Department of Corrections, the State Parole
237 Board, any criminal court of this state, and any other proper
238 official regarding the working, guarding, safekeeping, clothing
239 and subsistence of such persons performing work for the
240 transportation department. Such persons shall not be deemed
241 agents, employees or involuntary servants of the Transportation
242 Department while performing such work or while going to and from
243 work or other specified areas;

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

246 (w) The Mississippi Transportation Commission is
247 further authorized, in its discretion, to expend funds for the
248 purchase of service pins for employees of the Mississippi
249 Transportation Department;

250 (x) To cooperate with the State Tax Commission by
251 providing for weight enforcement field personnel to collect and

252 assess taxes, fees and penalties and to perform all duties as
253 required pursuant to Sections 27-55-501 et seq., Sections 27-19-1
254 et seq., 27-55-1 et seq., 27-59-1 et seq. and 27-61-1 et seq.,
255 Mississippi Code of 1972, with regard to vehicles subject to the
256 jurisdiction of the Office of Weight Enforcement. All collections
257 and assessments shall be transferred daily to the State Tax
258 Commission;

259 (y) The Mississippi Transportation Commission may
260 delegate the authority to enter into a supplemental agreement to a
261 contract previously approved by the commission if the supplemental
262 agreement involves an additional expenditure not to exceed One
263 Hundred Thousand Dollars (\$100,000.00).

264 SECTION 2. This act shall take effect and be in force from
265 and after July 1, 2000.