

By: Mayo

To: Transportation

## HOUSE BILL NO. 1092

1 AN ACT TO AMEND SECTION 65-1-75, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT IN DETERMINING THE TYPE AND KIND OF TRAFFIC CONTROL  
3 SIGN, SIGNAL OR DEVICE TO BE INSTALLED AT A PARTICULAR LOCATION IN  
4 A MUNICIPALITY, THE CRITERIA ESTABLISHED BY THE TRANSPORTATION  
5 DEPARTMENT SHALL GIVE EQUAL PRIORITY TO TRAFFIC VOLUME AND  
6 ACCIDENT RATES AT THAT LOCATION; AND FOR RELATED PURPOSES.

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

8 SECTION 1. Section 65-1-75, Mississippi Code of 1972, is  
9 amended as follows:[JWB1]

10 65-1-75. (1) The Mississippi Transportation Commission is  
11 authorized and empowered to have the transportation department  
12 locate, construct, reconstruct and maintain any designated state  
13 highway under its jurisdiction to, through, across or around any  
14 municipality in the state, regardless of the width of the street  
15 between curbs; and in so locating it is fully empowered to follow  
16 the route of the existing street or to depart therefrom, as in its  
17 discretion it deems advisable, and to obtain and pay for the  
18 necessary rights-of-way, as provided in Section 65-1-47. The  
19 municipality in which such construction is to be undertaken is  
20 likewise authorized to acquire rights-of-way on any such streets  
21 or on any newly located routes, either by purchase, gift or  
22 condemnation. Such rights-of-way may be acquired by either the  
23 municipality or the transportation department, subject to the  
24 approval of the commission, and the cost thereof may be borne by  
25 either or both as may be mutually agreed upon. In any event such  
26 municipality may be required to save the commission and department  
27 harmless from any claims for damages arising from the construction  
28 of the highway through such municipality, including claims for

29 rights-of-way, change of grade line, interference with public  
30 structures, and any and all damages so arising. Municipalities  
31 may secure additional improvements by payment of the additional  
32 cost of same. The commission may require such municipality to  
33 cause to be laid all water, sewer, gas or other pipelines or  
34 conduits, together with all necessary house or lot connections or  
35 services, to the curb line of such road or street to be  
36 constructed, and the commission is authorized to refuse to have  
37 the department lay such pipelines or conduits beneath such roads  
38 or streets until the municipality has laid same or entered into an  
39 agreement to reimburse the commission or department for the  
40 expense thereby incurred.

41 (2) All construction of state highways in or through  
42 municipalities, where done at the cost and expense of the state,  
43 whether heretofore or hereafter, shall be maintained in the same  
44 manner and to the same extent as is construction on state highways  
45 outside the limits of municipalities to the end that investment of  
46 the state in such highway so constructed may be preserved and  
47 maintained; and all reasonable rules and regulations with  
48 reference to the preservation and maintenance of such highways  
49 constructed at state expense, whether within or without municipal  
50 limits, may be promulgated by the commission, except that it shall  
51 have no power to promulgate police regulations contrary to  
52 existing law. On any municipal streets or parts or sections  
53 thereof taken over for regular maintenance and maintained by the  
54 department as a part of the state highway system, the municipality  
55 shall not be liable for negligence occasioned by the maintenance  
56 or repair of such streets thus apportioned to and of such width as  
57 is maintained by the department. The municipality shall have full  
58 control and responsibility beyond the curb lines of any designated  
59 highway or street, whether heretofore or hereafter so designated,  
60 (except the interstate system) located within its present or  
61 future expanded municipal corporate limits, regardless of the  
62 ownership of the right-of-way, including but not limited to, the  
63 construction and maintenance of sidewalks, grass mowing and  
64 drainage systems; however, the department may utilize the  
65 right-of-way purchased by the commission without any additional

66 cost or permission.

67         The municipality shall not allow any encroachments, signs or  
68 billboards to be erected or to remain on state-owned rights-of-way  
69 on any designated highway within its corporate limits without the  
70 consent of the commission. The municipality, at its own expense,  
71 shall provide street illumination and shall clean all streets,  
72 including storm sewer inlets and catch basins. The commission may  
73 enter into an agreement with the municipality or with a private  
74 entity to sweep and clean the designated highways within or  
75 without the corporate limits. The commission may, at state  
76 expense, provide illumination and may clean all interstate  
77 highways within the corporate limits of any municipality. The  
78 right of the municipality to grant franchises over, beneath and  
79 upon such streets is specifically retained, but the municipality  
80 shall require every grantee of a franchise to restore, repair and  
81 replace to its original condition any portion of any such street  
82 damaged or injured by it; however, permission to open the surface  
83 of any municipal street maintained by the department must be  
84 obtained from both the commission and the municipality concerned  
85 before any such opening is made. Each municipality shall retain  
86 full police power over its streets, particularly as to regulating  
87 and enforcing traffic and parking restrictions on such streets,  
88 but any traffic control and parking regulations repugnant to state  
89 law shall be null and void. The commission shall have the  
90 department erect, control and maintain all highway route markers  
91 and directional signs on such streets at state expense. The  
92 commission, at state expense, shall have the department install,  
93 operate, maintain, control, and have full jurisdiction over, all  
94 traffic control devices, including, but not limited to, signals,  
95 signs, striping and lane markings on state highway streets in  
96 municipalities having a population of twenty thousand (20,000) or  
97 less according to the current U.S. census; but municipalities  
98 over twenty thousand (20,000) population according to such census

99 shall install, operate, maintain and control such devices at their  
100 own expense, subject to approval of the executive director  
101 regarding operations, method of installation and type only.  
102 Municipalities having a population of five thousand (5,000) or  
103 more but less than twenty thousand (20,000) according to the most  
104 recent federal census shall only be responsible for electrical  
105 operating costs; and all other costs for the installation,  
106 operation and maintenance of traffic control devices, including  
107 the changing of signal bulbs in traffic signal lights, shall be  
108 the responsibility of the transportation department. The  
109 commission may purchase at state expense and install traffic  
110 control devices in municipalities over twenty thousand (20,000)  
111 population and donate them to the municipalities for operation and  
112 maintenance whenever it appears to the commission that, in the  
113 interest of safety or convenience of the motoring public, any of  
114 the devices should be upgraded, replaced or removed. Any revenue  
115 from parking meters on any such streets shall be controlled by and  
116 belong to the municipality. In determining the type and kind of  
117 traffic control sign, signal or device to be installed at a  
118 particular location in a municipality, the criteria established by  
119 the Transportation Department shall give equal priority to traffic  
120 volume and accident rates at that location.

121 (3) The maintenance of all streets within the limits of any  
122 municipality in this state, regardless of size, which are  
123 presently being regularly maintained, in whole or in part, by the  
124 department at state expense as a part or parts of any designated  
125 state highway shall be continued. Whenever any state highway runs  
126 into or through the corporate limits of any municipality, the  
127 municipal street or the street utilized and marked as a part of  
128 any such state highway may be a part of the state highway system  
129 and may be maintained by the department; however, such route  
130 through any municipality shall be selected by the commission by  
131 orders spread on its minutes describing all such routes, and such

132 route or routes may be changed, relocated or abandoned by the  
133 commission from time to time, all under the provisions, terms and  
134 conditions herein provided, but the commission shall have the  
135 department maintain only one (1) route of any highway through a  
136 municipality. Upon relocation of such state highway or  
137 abandonment thereof, the municipal street formerly used as a state  
138 highway shall thereby return to the jurisdiction of, and  
139 maintenance by, the municipality.

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