

By: Compretta, Eakes

To: Transportation

HOUSE BILL NO. 1421

1 AN ACT TO AMEND SECTION 65-1-8, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE THE MISSISSIPPI TRANSPORTATION COMMISSION TO ENTER INTO
3 AGREEMENTS WITH BUSINESSES, CORPORATIONS OR OTHER LEGAL ENTITIES
4 FOR THE PURPOSE OF ACCELERATING THE COMPLETION DATE OF SCHEDULED
5 HIGHWAY CONSTRUCTION PROJECTS; TO PROVIDE THAT SUCH AGREEMENTS MAY
6 PERMIT THE COST OF HIGHWAY CONSTRUCTION PROJECTS TO BE ADVANCED TO
7 THE COMMISSION BY THE BUSINESS, CORPORATION, PARTNERSHIP,
8 ASSOCIATION, INDIVIDUAL OR OTHER LEGAL ENTITY AND REPAID TO SUCH
9 ENTITY BY THE COMMISSION WHEN HIGHWAY CONSTRUCTION FUNDS BECOME
10 AVAILABLE; 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 U.S. numbered highway. Where, by a
74 specific act of the Legislature, the commission has been directed
75 to give a certain number to a highway, the commission shall not
76 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, in its discretion, with the
184 Mississippi Forestry Commission and the School of Forestry,
185 Mississippi State University, in a forestry management program,
186 including planting, thinning, cutting and selling, upon the
187 right-of-way of any highway, constructed, acquired or maintained
188 by the Transportation Department, and to sell and dispose of any
189 and all growing timber standing, lying or being on any
190 right-of-way acquired by the commission for highway purposes in
191 the future; such sale or sales to be made in accordance with the
192 sale of personal property which has become unnecessary for public
193 use as provided for in Section 65-1-123, Mississippi Code of 1972;

194 (s) To expend funds in cooperation with the Division of
195 Plant Industry, Mississippi Department of Agriculture and

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

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

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

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

228 (w) The Mississippi Transportation Commission is

229 further authorized, in its discretion, to expend funds for the
230 purchase of service pins for employees of the Mississippi
231 Transportation Department;

232 (x) To cooperate with the State Tax Commission by
233 providing for weight enforcement field personnel to collect and
234 assess taxes, fees and penalties and to perform all duties as
235 required pursuant to Section 27-55-501 et seq., Sections 27-19-1
236 et seq., 27-55-1 et seq., 27-59-1 et seq. and 27-61-1 et seq.,
237 Mississippi Code of 1972, with regard to vehicles subject to the
238 jurisdiction of the Office of Weight Enforcement. All collections
239 and assessments shall be transferred daily to the State Tax
240 Commission;

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

246 (z) The Mississippi Transportation Commission, in its
247 discretion, may enter into agreements with any business,
248 corporation, partnership, association, individual or other legal
249 entity for the purpose of accelerating the completion date of
250 scheduled highway construction projects. Such agreements may
251 permit the cost of highway construction projects to be advanced to
252 the commission by the business, corporation, partnership,
253 association, individual or other legal entity and repaid to such
254 entity by the commission when highway construction funds become
255 available. In considering whether to enter into such an
256 agreement, the commission shall consider the availability of
257 financial resources; the effect of such agreements on other
258 ongoing highway construction; the urgency of the public's need for
259 swift completion of the project; and any other relevant factors.
260 Such agreements shall be executed only upon a finding by the
261 commission, spread upon its minutes, that the acceleration of the

262 scheduled project is both feasible and beneficial.

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