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To: Highways and
Transportation

SENATE BILL NO. 2637
(As Sent to Governor)

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 COUNTIES, MUNICIPALITIES, COUNTY TRANSPORTATION
4 COMMISSIONS, BUSINESSES, CORPORATIONS OR OTHER LEGAL ENTITIES FOR
5 THE PURPOSE OF ACCELERATING THE COMPLETION DATE OF SCHEDULED
6 HIGHWAY CONSTRUCTION PROJECTS; TO PROVIDE THAT SUCH AGREEMENTS MAY
7 PERMIT THE COST OF HIGHWAY CONSTRUCTION PROJECTS TO BE ADVANCED TO
8 THE COMMISSION BY THE BUSINESS, CORPORATION, PARTNERSHIP,
9 ASSOCIATION, INDIVIDUAL OR OTHER LEGAL ENTITY AND REPAID TO SUCH
10 ENTITY BY THE COMMISSION WHEN HIGHWAY CONSTRUCTION FUNDS BECOME
11 AVAILABLE; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

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

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

30 (f) To receive and provide for the expenditure of any

31 funds made available to it by the Legislature, the federal
32 government, or any other source.

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

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

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

52 (c) To make and publish rules, regulations and
53 ordinances for the control of and the policing of the traffic on
54 the state highways, and to prevent their abuse by any or all
55 persons, natural or artificial, by trucks, tractors, trailers or
56 any other heavy or destructive vehicles or machines, or by any
57 other means whatsoever, by establishing weights of loads or of
58 vehicles, types of tires, width of tire surfaces, length and width
59 of vehicles, with reasonable variations to meet approximate
60 weather conditions, and all other proper police and protective
61 regulations, and to provide ample means for the enforcement of
62 same. The violation of any of the rules, regulations or
63 ordinances so prescribed by the commission shall constitute a

64 misdemeanor. No rule, regulation or ordinance shall be made that
65 conflicts with any statute now in force or which may hereafter be
66 enacted, or with any ordinance of municipalities. A monthly
67 publication giving general information to the boards of
68 supervisors, employees and the public may be issued under such
69 rules and regulations as the commission may determine;

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

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

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

97 shall constitute a misdemeanor;

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

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

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

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

129 (j) To provide, under the direction and with the

130 approval of the Department of Finance and Administration, suitable
131 offices, shops and barns in the City of Jackson;

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

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

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

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

160 (o) To cooperate, in its discretion, with the
161 Mississippi Department of Wildlife, Fisheries and Parks in
162 planning and constructing roadside parks upon the right-of-way of

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

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

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

184 (r) To cooperate, in its discretion, with the
185 Mississippi Forestry Commission and the School of Forestry,
186 Mississippi State University, in a forestry management program,
187 including planting, thinning, cutting and selling, upon the
188 right-of-way of any highway, constructed, acquired or maintained
189 by the Transportation Department, and to sell and dispose of any
190 and all growing timber standing, lying or being on any
191 right-of-way acquired by the commission for highway purposes in
192 the future; such sale or sales to be made in accordance with the
193 sale of personal property which has become unnecessary for public
194 use as provided for in Section 65-1-123, 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 Section 27-55-501 et seq., Sections 27-19-1
237 et seq., 27-55-1 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 (z) (i) The Mississippi Transportation Commission, in
248 its discretion, may enter into agreements with any county,
249 municipality, county transportation commission, business,
250 corporation, partnership, association, individual or other legal
251 entity, for the purpose of accelerating the completion date of
252 scheduled highway construction projects.

253 (ii) Such an agreement may permit the cost of a
254 highway construction project to be advanced to the commission by a
255 county, municipality, county transportation commission, business,
256 corporation, partnership, association, individual or other legal
257 entity, and repaid to such entity by the commission when highway
258 construction funds become available; provided, however, that
259 repayment of funds advanced to the Mississippi Transportation
260 Commission shall be made no sooner than the commission's
261 identified projected revenue schedule for funding of that

262 particular construction project, and no other scheduled highway
263 construction project established by statute or by the commission
264 may be delayed by an advanced funding project authorized under
265 this paragraph (z). Repayments to an entity that advances funds
266 to the Mississippi Transportation Commission under this paragraph
267 (z) may not include interest or other fees or charges, and the
268 total amount repaid shall not exceed the total amount of funds
269 advanced to the commission by the entity.

270 (iii) In considering whether to enter into such an
271 agreement, the commission shall consider the availability of
272 financial resources, the effect of such agreement on other ongoing
273 highway construction, the urgency of the public's need for swift
274 completion of the project and any other relevant factors.

275 (iv) Such an agreement shall be executed only upon
276 a finding by the commission, spread upon its minutes, that the
277 acceleration of the scheduled project is both feasible and
278 beneficial. The commission shall also spread upon its minutes its
279 findings with regard to the factors required to be considered
280 pursuant to item (iii) of this paragraph (z).

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