

By: Representatives Maples, Pierce, Hamilton To: Transportation

HOUSE BILL NO. 387

1 AN ACT TO AMEND SECTIONS 65-1-59 AND 65-1-75, MISSISSIPPI  
2 CODE OF 1972, TO PROVIDE THAT THOSE PORTIONS OF HIGHWAY ON THE  
3 STATE HIGHWAY SYSTEM THAT, FROM AND AFTER JULY 1, 2000, ARE  
4 RELOCATED, REPLACED OR BYPASSED BY THE MISSISSIPPI DEPARTMENT OF  
5 TRANSPORTATION IN CONSTRUCTION OF THE FOUR-LANE HIGHWAY PROGRAM  
6 SHALL NOT RETURN TO THE JURISDICTION OF THE COUNTY OR MUNICIPALITY  
7 WHERE LOCATED BUT SHALL REMAIN AS PART OF THE STATE HIGHWAY SYSTEM  
8 AND SHALL BE UNDER THE JURISDICTION OF THE MISSISSIPPI  
9 TRANSPORTATION COMMISSION FOR CONSTRUCTION AND MAINTENANCE; AND  
10 FOR RELATED PURPOSES.

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

12 SECTION 1. Section 65-1-59, Mississippi Code of 1972, is  
13 amended as follows:

14 65-1-59. (1) It shall be the duty of the State Highway  
15 Commission to have the State Highway Department carry out all  
16 contracts and agreements, including federal-aid projects and  
17 agreements under the County Highway Aid Law of 1946, being  
18 Sections 65-11-1 to 65-11-37, heretofore made or entered into with  
19 any county, subject, however, to applicable rules and regulations  
20 of the Federal Highway Administration. It shall be the duty of  
21 the Highway Commission to continue to have the State Highway  
22 Department maintain all state highways now under maintenance or  
23 hereafter taken over for maintenance, the purpose of this  
24 provision being to preserve the status quo of all state highways  
25 insofar as such highways have been taken over and control and  
26 jurisdiction has been assumed by the State Highway Commission and  
27 State Highway Department; however, except as otherwise provided in  
28 this section, if any highway or link of highway is removed from  
29 the state highway system by legislative act or by relocation or  
30 reconstruction, it shall no longer be maintained by or be under  
31 the jurisdiction of the State Highway Commission or State Highway



32 Department, but shall be returned to the jurisdiction of the board  
33 of supervisors of the county or governing authorities of the  
34 municipality through which such road runs. Except as to segments  
35 of highways shorter than three (3) miles which have been or which  
36 are hereafter replaced through curve straightening or minor  
37 realignment, the Highway Commission shall retain and have the  
38 State Highway Department maintain as state highways all portions  
39 of U.S. highways that either before or after July 1, 1989, have  
40 been or are replaced and constructed as a part of the interstate  
41 highway system, or four-lane primary system, or which are replaced  
42 and constructed or are designated to be replaced and constructed  
43 as part of the four-lane highway system under Section 65-3-97,  
44 including portions of all such highways so replaced, or which  
45 under Section 65-3-97 are designated to be replaced, by municipal  
46 bypasses; and such highways and portions thereof shall be  
47 continued to be maintained as a part of the Mississippi state  
48 highway system until removed from such system by legislative act.  
49 All such highways and portions thereof which, by virtue of the  
50 provisions of this section, are returned on or after July 1, 1989,  
51 to the jurisdiction of the State Highway Commission shall be  
52 maintained by the State Highway Department only to the traffic  
53 capacities existing at the time that they are returned and any  
54 subsequent traffic capacity improvements or other improvements  
55 desired by the county or municipality within which such highway or  
56 portion thereof is located shall be performed in accordance with  
57 highway standards approved by the Highway Commission and the  
58 expenses for making such improvements shall be paid by the county  
59 or municipality; however, all highways and portions thereof so  
60 improved by the county or municipality shall thereafter be  
61 maintained by the State Highway Department. Before any highway or  
62 portion thereof is returned to the Highway Commission under this  
63 section, the county or municipality having jurisdiction thereof  
64 shall remove or cause to be removed by July 1, 1991, all



65 right-of-way encroachments along the entire length of the highway  
66 or portion thereof which are not permitted by Highway Commission  
67 and Highway Department policies and rules and regulations adopted  
68 pursuant to state and federal law. Any such encroachments may be  
69 allowed to remain only by permits issued by the State Highway  
70 Department in the manner and subject to the same conditions for  
71 the issuance of permits for similar encroachments on other  
72 highways on the state highway system. If traffic counts indicate  
73 that any highway or portions thereof placed under the jurisdiction  
74 of the Highway Commission under the provisions of this section no  
75 longer form a substantial part of the state highway system, the  
76 Highway Commission may request the Legislature to remove such  
77 highways or portions thereof from the state highway system and  
78 return said roads for maintenance to the county or municipality in  
79 which they are located, as provided in subsection (3) of this  
80 section. The highways which the Highway Department is required to  
81 continue to maintain by virtue of the provisions of this section  
82 shall be in addition to the total mileage limitation of eight  
83 thousand six hundred (8,600) miles provided in Section 65-3-3.

84 (2) Notwithstanding any other provisions of this section to  
85 the contrary, those portions of any highway on the designated  
86 state highway system that, from and after July 1, 2000, are  
87 relocated, replaced or bypassed by the Mississippi Department of  
88 Transportation in construction of the four-lane highway program  
89 under Section 65-3-97, shall not return to the jurisdiction of the  
90 county or municipality where located, but shall remain as part of  
91 the designated state highway system and shall be under the  
92 jurisdiction of the Mississippi Transportation Commission for  
93 construction and maintenance.

94 (3) The State Highway Commission shall, no later than  
95 October 1, 1981, and October 1 each year thereafter, furnish the  
96 Transportation Committee of the House of Representatives and the  
97 Highways and Transportation Committee of the Senate a



98 recommendation for deletion of those highways or sections of  
99 highways which should be removed from the system.

100 SECTION 2. Section 65-1-75, Mississippi Code of 1972, is  
101 amended as follows:

102 65-1-75. (1) The Mississippi Transportation Commission is  
103 authorized and empowered to have the transportation department  
104 locate, construct, reconstruct and maintain any designated state  
105 highway under its jurisdiction to, through, across or around any  
106 municipality in the state, regardless of the width of the street  
107 between curbs; and in so locating it is fully empowered to follow  
108 the route of the existing street or to depart therefrom, as in its  
109 discretion it deems advisable, and to obtain and pay for the  
110 necessary rights-of-way, as provided in Section 65-1-47. The  
111 municipality in which such construction is to be undertaken is  
112 likewise authorized to acquire rights-of-way on any such streets  
113 or on any newly located routes, either by purchase, gift or  
114 condemnation. Such rights-of-way may be acquired by either the  
115 municipality or the transportation department, subject to the  
116 approval of the commission, and the cost thereof may be borne by  
117 either or both as may be mutually agreed upon. In any event such  
118 municipality may be required to save the commission and department  
119 harmless from any claims for damages arising from the construction  
120 of the highway through such municipality, including claims for  
121 rights-of-way, change of grade line, interference with public  
122 structures, and any and all damages so arising. Municipalities  
123 may secure additional improvements by payment of the additional  
124 cost of same. The commission may require such municipality to  
125 cause to be laid all water, sewer, gas or other pipelines or  
126 conduits, together with all necessary house or lot connections or  
127 services, to the curb line of such road or street to be  
128 constructed, and the commission is authorized to refuse to have  
129 the department lay such pipelines or conduits beneath such roads  
130 or streets until the municipality has laid same or entered into an



131 agreement to reimburse the commission or department for the  
132 expense thereby incurred.

133 (2) All construction of state highways in or through  
134 municipalities, where done at the cost and expense of the state,  
135 whether heretofore or hereafter, shall be maintained in the same  
136 manner and to the same extent as is construction on state highways  
137 outside the limits of municipalities to the end that investment of  
138 the state in such highway so constructed may be preserved and  
139 maintained; and all reasonable rules and regulations with  
140 reference to the preservation and maintenance of such highways  
141 constructed at state expense, whether within or without municipal  
142 limits, may be promulgated by the commission, except that it shall  
143 have no power to promulgate police regulations contrary to  
144 existing law. On any municipal streets or parts or sections  
145 thereof taken over for regular maintenance and maintained by the  
146 department as a part of the state highway system, the municipality  
147 shall not be liable for negligence occasioned by the maintenance  
148 or repair of such streets thus apportioned to and of such width as  
149 is maintained by the department. The municipality shall have full  
150 control and responsibility beyond the curb lines of any designated  
151 highway or street, whether heretofore or hereafter so designated,  
152 (except the interstate system) located within its present or  
153 future expanded municipal corporate limits, regardless of the  
154 ownership of the right-of-way, including but not limited to, the  
155 construction and maintenance of sidewalks, grass mowing and  
156 drainage systems; however, the department may utilize the  
157 right-of-way purchased by the commission without any additional  
158 cost or permission.

159 The municipality shall not allow any encroachments, signs or  
160 billboards to be erected or to remain on state-owned rights-of-way  
161 on any designated highway within its corporate limits without the  
162 consent of the commission. The municipality, at its own expense,  
163 shall provide street illumination and shall clean all streets,



164 including storm sewer inlets and catch basins. The commission may  
165 enter into an agreement with the municipality or with a private  
166 entity to sweep and clean the designated highways within or  
167 without the corporate limits. The commission may, at state  
168 expense, provide illumination and may clean all interstate  
169 highways within the corporate limits of any municipality. The  
170 right of the municipality to grant franchises over, beneath and  
171 upon such streets is specifically retained, but the municipality  
172 shall require every grantee of a franchise to restore, repair and  
173 replace to its original condition any portion of any such street  
174 damaged or injured by it; however, permission to open the surface  
175 of any municipal street maintained by the department must be  
176 obtained from both the commission and the municipality concerned  
177 before any such opening is made. Each municipality shall retain  
178 full police power over its streets, particularly as to regulating  
179 and enforcing traffic and parking restrictions on such streets,  
180 but any traffic control and parking regulations repugnant to state  
181 law shall be null and void. The commission shall have the  
182 department erect, control and maintain all highway route markers  
183 and directional signs on such streets at state expense. The  
184 commission, at state expense, shall have the department install,  
185 operate, maintain, control, and have full jurisdiction over, all  
186 traffic control devices, including, but not limited to, signals,  
187 signs, striping and lane markings on state highway streets in  
188 municipalities having a population of twenty thousand (20,000) or  
189 less according to the current U.S. census; but municipalities over  
190 twenty thousand (20,000) population according to such census shall  
191 install, operate, maintain and control such devices at their own  
192 expense, subject to approval of the executive director regarding  
193 operations, method of installation and type only. Municipalities  
194 having a population of five thousand (5,000) or more but less than  
195 twenty thousand (20,000) according to the most recent federal  
196 census shall only be responsible for electrical operating costs;



197 and all other costs for the installation, operation and  
198 maintenance of traffic control devices, including the changing of  
199 signal bulbs in traffic signal lights, shall be the responsibility  
200 of the transportation department. The commission may purchase at  
201 state expense and install traffic control devices in  
202 municipalities over twenty thousand (20,000) population and donate  
203 them to the municipalities for operation and maintenance whenever  
204 it appears to the commission that, in the interest of safety or  
205 convenience of the motoring public, any of the devices should be  
206 upgraded, replaced or removed. Any revenue from parking meters on  
207 any such streets shall be controlled by and belong to the  
208 municipality.

209 (3) The maintenance of all streets within the limits of any  
210 municipality in this state, regardless of size, which are  
211 presently being regularly maintained, in whole or in part, by the  
212 department at state expense as a part or parts of any designated  
213 state highway shall be continued. Whenever any state highway runs  
214 into or through the corporate limits of any municipality, the  
215 municipal street or the street utilized and marked as a part of  
216 any such state highway may be a part of the state highway system  
217 and may be maintained by the department; however, such route  
218 through any municipality shall be selected by the commission by  
219 orders spread on its minutes describing all such routes, and such  
220 route or routes may be changed, relocated or abandoned by the  
221 commission from time to time, all under the provisions, terms and  
222 conditions herein provided, but the commission shall have the  
223 department maintain only one (1) route of any highway through a  
224 municipality. Upon relocation of such state highway or  
225 abandonment thereof, the municipal street formerly used as a state  
226 highway shall thereby return to the jurisdiction of, and  
227 maintenance by, the municipality.

228 (4) Notwithstanding any other provisions of this section to  
229 the contrary, those portions of any highway on the designated



230 state highway system that, from and after July 1, 2000, are  
231 relocated, replaced or bypassed by the Mississippi Department of  
232 Transportation in construction of the four-lane highway program  
233 under Section 65-3-97, shall not return to the jurisdiction of the  
234 municipality where located, but shall remain as part of the  
235 designated state highway system and shall be under the  
236 jurisdiction of the Mississippi Transportation Commission for  
237 construction and maintenance.

238         SECTION 3. This act shall take effect and be in force from  
239 and after its passage.

