

By: Senator(s) Dearing (By Request)

To: Highways and  
Transportation;  
Appropriations

SENATE BILL NO. 2433

1 AN ACT TO AMEND SECTION 65-1-8, MISSISSIPPI CODE OF 1972, TO  
2 BROADEN THE PROJECTS FOR WHICH THE MISSISSIPPI TRANSPORTATION  
3 COMMISSION MAY ENTER INTO AGREEMENTS TO PERMIT THE COST OF SUCH  
4 PROJECTS TO BE ADVANCED BY CERTAIN ENTITIES FOR THE PURPOSE OF  
5 ACCELERATING THE COMPLETION DATE OF SUCH PROJECTS; AND FOR RELATED  
6 PURPOSES.

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

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

10 65-1-8. (1) The Mississippi Transportation Commission shall  
11 have the following general powers, duties and responsibilities:

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

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

16 (c) To make recommendations to the Legislature  
17 regarding alterations or modifications in any existing  
18 transportation policies;

19 (d) To study means of encouraging travel and  
20 transportation of goods by the combination of motor vehicle and  
21 other modes of transportation;

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

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

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

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

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

47           (c) To make and publish rules, regulations and  
48 ordinances for the control of and the policing of the traffic on  
49 the state highways, and to prevent their abuse by any or all  
50 persons, natural or artificial, by trucks, tractors, trailers or  
51 any other heavy or destructive vehicles or machines, or by any  
52 other means whatsoever, by establishing weights of loads or of  
53 vehicles, types of tires, width of tire surfaces, length and width  
54 of vehicles, with reasonable variations to meet approximate  
55 weather conditions, and all other proper police and protective  
56 regulations, and to provide ample means for the enforcement of  
57 same. The violation of any of the rules, regulations or  
58 ordinances so prescribed by the commission shall constitute a  
59 misdemeanor. No rule, regulation or ordinance shall be made that  
60 conflicts with any statute now in force or which may hereafter be

61 enacted, or with any ordinance of municipalities. A monthly  
62 publication giving general information to the boards of  
63 supervisors, employees and the public may be issued under such  
64 rules and regulations as the commission may determine;

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

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

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

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

110           (g) To make proper and reasonable rules and regulations  
111 to control the cutting or opening of the road surfaces for  
112 subsurface installations;

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

119           (i) To establish, and have the Transportation  
120 Department maintain and operate, and to cooperate with the state  
121 educational institutions in establishing, enlarging, maintaining  
122 and operating a laboratory or laboratories for testing materials  
123 and for other proper highway purposes;

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

127           (k) To establish and have enforced set-back  
128 regulations;

129           (l) To cooperate with proper state authorities in  
130 producing limerock for highway purposes and to purchase same at  
131 cost;

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

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

155           (o) To cooperate, in its discretion, with the  
156 Mississippi Department of Wildlife, Fisheries and Parks in

157 planning and constructing roadside parks upon the right-of-way of  
158 state highways, whether constructed, under construction, or  
159 planned; said parks to utilize where practical barrow pits used in  
160 construction of state highways for use as fishing ponds. Said  
161 parks shall be named for abundant flora and fauna existing in the  
162 area or for the first flora or fauna found on the site;

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

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

179 (r) To cooperate, in its discretion, with the  
180 Mississippi Forestry Commission and the School of Forestry,  
181 Mississippi State University, in a forestry management program,  
182 including planting, thinning, cutting and selling, upon the  
183 right-of-way of any highway, constructed, acquired or maintained  
184 by the Transportation Department, and to sell and dispose of any  
185 and all growing timber standing, lying or being on any  
186 right-of-way acquired by the commission for highway purposes in  
187 the future; such sale or sales to be made in accordance with the  
188 sale of personal property which has become unnecessary for public  
189 use as provided for in Section 65-1-123, Mississippi Code of 1972;

190           (s) To expend funds in cooperation with the Division of  
191 Plant Industry, Mississippi Department of Agriculture and  
192 Commerce, the United States government or any department or agency  
193 thereof, or with any department or agency of this state, to  
194 control, suppress or eradicate serious insect pests, rodents,  
195 plant parasites and plant diseases on the state highway  
196 rights-of-way;

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

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

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

224           (w) The Mississippi Transportation Commission is  
225 further authorized, in its discretion, to expend funds for the  
226 purchase of service pins for employees of the Mississippi  
227 Transportation Department;

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

237           (y) The Mississippi Transportation Commission may  
238 delegate the authority to enter into a supplemental agreement to a  
239 contract previously approved by the commission if the supplemental  
240 agreement involves an additional expenditure not to exceed One  
241 Hundred Thousand Dollars (\$100,000.00);

242           (z) (i) The Mississippi Transportation Commission, in  
243 its discretion, may enter into agreements with any county,  
244 municipality, county transportation commission, business,  
245 corporation, partnership, association, individual or other legal  
246 entity, for the purpose of accelerating the completion date of  
247 scheduled transportation projects.

248                   (ii) Such an agreement may permit the cost of a  
249 transportation project to be advanced to the commission by a  
250 county, municipality, county transportation commission, business,  
251 corporation, partnership, association, individual or other legal  
252 entity, and repaid to such entity by the commission when \* \* \*  
253 funds for the project become available; provided, however, that  
254 repayment of funds advanced to the Mississippi Transportation



255 Commission shall be made no sooner than the commission's  
256 identified projected revenue schedule for funding of that  
257 particular \* \* \* project, and no other scheduled transportation  
258 project established by statute or by the commission may be delayed  
259 by an advanced funding project authorized under this paragraph  
260 (z). Repayments to an entity that advances funds to the  
261 Mississippi Transportation Commission under this paragraph (z) may  
262 not include interest or other fees or charges, and the total  
263 amount repaid shall not exceed the total amount of funds advanced  
264 to the commission by the entity.

265 (iii) In considering whether to enter into such an  
266 agreement, the commission shall consider the availability of  
267 financial resources, the effect of such agreement on other ongoing  
268 transportation projects, the urgency of the public's need for  
269 swift completion of the project and any other relevant factors.

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

276 SECTION 2. This act shall take effect and be in force from  
277 and after its passage.