HOUSE BILL NO. 259

AN ACT TO AMEND SECTIONS 65-1-59 AND 65-1-75, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THOSE HIGHWAYS OR PORTIONS OF HIGHWAYS WITHIN A COUNTY OR MUNICIPALITY THAT EITHER BEFORE OR AFTER JULY 1, 2002, WERE OR ARE ON THE STATE HIGHWAY SYSTEM AND UNDER THE JURISDICTION OF THE MISSISSIPPI DEPARTMENT OF TRANSPORTATION FOR CONSTRUCTION AND MAINTENANCE BUT WHICH HAVE BEEN OR ARE RELOCATED, REPLACED OR BYPASSED IN CONSTRUCTION OF THE FOUR-LANE HIGHWAY PROGRAM SHALL BE ON THE DESIGNATED STATE HIGHWAY SYSTEM AND SHALL BE UNDER THE JURISDICTION OF THE MISSISSIPPI TRANSPORTATION COMMISSION FOR CONSTRUCTION AND MAINTENANCE; AND FOR RELATED PURPOSES.

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

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

65-1-59. (1) It shall be the duty of the State Highway Commission to have the State Highway Department carry out all contracts and agreements, including federal-aid projects and agreements under the County Highway Aid Law of 1946, being Sections 65-11-1 to 65-11-37, heretofore made or entered into with any county, subject, however, to applicable rules and regulations of the Federal Highway Administration. It shall be the duty of the Highway Commission to continue to have the State Highway Department maintain all state highways now under maintenance or hereafter taken over for maintenance, the purpose of this provision being to preserve the status quo of all state highways insofar as such highways have been taken over and control and jurisdiction has been assumed by the State Highway Commission and State Highway Department; however, except as otherwise provided in this section, if any highway or link of highway is removed from the state highway system by legislative act or by relocation or reconstruction, it shall no longer be maintained by or be under
the jurisdiction of the State Highway Commission or State Highway
Department, but shall be returned to the jurisdiction of the board
of supervisors of the county or governing authorities of the
municipality through which such road runs. Except as to segments
of highways shorter than three (3) miles which have been or which
are hereafter replaced through curve straightening or minor
realignment, the Highway Commission shall retain and have the
State Highway Department maintain as state highways all portions
of U.S. highways that either before or after July 1, 1989, have
been or are replaced and constructed as a part of the interstate
highway system, or four-lane primary system, or which are replaced
and constructed or are designated to be replaced and constructed
as part of the four-lane highway system under Section 65-3-97,
including portions of all such highways so replaced, or which
under Section 65-3-97 are designated to be replaced, by municipal
bypasses; and such highways and portions thereof shall be
continued to be maintained as a part of the Mississippi state
highway system until removed from such system by legislative act.
All such highways and portions thereof which, by virtue of the
provisions of this section, are returned on or after July 1, 1989,
to the jurisdiction of the State Highway Commission shall be
maintained by the State Highway Department only to the traffic
capacities existing at the time that they are returned and any
subsequent traffic capacity improvements or other improvements
desired by the county or municipality within which such highway or
portion thereof is located shall be performed in accordance with
highway standards approved by the Highway Commission and the
expenses for making such improvements shall be paid by the county
or municipality; however, all highways and portions thereof so
improved by the county or municipality shall thereafter be
maintained by the State Highway Department. Before any highway or
portion thereof is returned to the Highway Commission under this
section, the county or municipality having jurisdiction thereof
shall remove or cause to be removed by July 1, 1991, all right-of-way encroachments along the entire length of the highway or portion thereof which are not permitted by Highway Commission and Highway Department policies and rules and regulations adopted pursuant to state and federal law. Any such encroachments may be allowed to remain only by permits issued by the State Highway Department in the manner and subject to the same conditions for the issuance of permits for similar encroachments on other highways on the state highway system. If traffic counts indicate that any highway or portions thereof placed under the jurisdiction of the Highway Commission under the provisions of this section no longer form a substantial part of the state highway system, the Highway Commission may request the Legislature to remove such highways or portions thereof from the state highway system and return said roads for maintenance to the county or municipality in which they are located, as provided in subsection (2) of this section. The highways which the Highway Department is required to continue to maintain by virtue of the provisions of this section shall be in addition to the total mileage limitation of eight thousand six hundred (8,600) miles provided in Section 65-3-3. (2) Notwithstanding any other provisions of this section to the contrary, the following highways or portions of highways shall be on the designated state highway system and shall be under the jurisdiction of the Mississippi Transportation Commission for construction and maintenance:

(a) Those highways or portions of highways located within counties or municipalities that before July 1, 2002, were on the designated state highway system and under the jurisdiction of the Mississippi Transportation Commission for construction and maintenance but which were relocated, replaced or bypassed by the Mississippi Department of Transportation in construction of the four-lane highway program under Section 65-3-97; and
(b) Those highways or portions of highways located within counties or municipalities that from and after July 1, 2002, are on the designated state highway system and under the jurisdiction of the Mississippi Transportation Commission for construction and maintenance but which are relocated, replaced or bypassed by the Mississippi Department of Transportation in construction of the four-lane highway program under Section 65-3-97.

(3) The State Highway Commission shall, no later than October 1, 1981, and October 1 each year thereafter, furnish the Transportation Committee of the House of Representatives and the Highways and Transportation Committee of the Senate a recommendation for deletion of those highways or sections of highways which should be removed from the system.

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

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

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

The municipality shall not allow any encroachments, signs or billboards to be erected or to remain on state-owned rights-of-way on any designated highway within its corporate limits without the consent of the commission. The municipality, at its own expense, shall provide street illumination and shall clean all streets, including storm sewer inlets and catch basins. The commission may enter into an agreement with the municipality or with a private entity to sweep and clean the designated highways within or without the corporate limits. The commission may, at state expense, provide illumination and may clean all interstate highways within the corporate limits of any municipality. The right of the municipality to grant franchises over, beneath and upon such streets is specifically retained, but the municipality shall require every grantee of a franchise to restore, repair and replace to its original condition any portion of any such street damaged or injured by it; however, permission to open the surface of any municipal street maintained by the department must be obtained from both the commission and the municipality concerned before any such opening is made. Each municipality shall retain full police power over its streets, particularly as to regulating and enforcing traffic and parking restrictions on such streets, but any traffic control and parking regulations repugnant to state law shall be null and void. The commission shall have the department erect, control and maintain all highway route markers and directional signs on such streets at state expense. The commission, at state expense, shall have the department install,
operate, maintain, control, and have full jurisdiction over, all
traffic control devices, including, but not limited to, signals,
signs, striping and lane markings on state highway streets in
municipalities having a population of twenty thousand (20,000) or
less according to the current U.S. census; but municipalities over
twenty thousand (20,000) population according to such census shall
install, operate, maintain and control such devices at their own
expense, subject to approval of the executive director regarding
operations, method of installation and type only. Municipalities
having a population of five thousand (5,000) or more but less than
twenty thousand (20,000) according to the most recent federal
census shall only be responsible for electrical operating costs;
and all other costs for the installation, operation and
maintenance of traffic control devices, including the changing of
signal bulbs in traffic signal lights, shall be the responsibility
of the transportation department. The commission may purchase at
state expense and install traffic control devices in
municipalities over twenty thousand (20,000) population and donate
them to the municipalities for operation and maintenance whenever
it appears to the commission that, in the interest of safety or
convenience of the motoring public, any of the devices should be
upgraded, replaced or removed. Any revenue from parking meters on
any such streets shall be controlled by and belong to the
municipality.

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

(4) Notwithstanding any other provisions of this section to
the contrary, the following highways or portions of highways shall
be on the designated state highway system and shall be under the
jurisdiction of the Mississippi Transportation Commission for
construction and maintenance:

(a) Those highways or portions of highways located
within municipalities that before July 1, 2002, were on the
designated state highway system and under the jurisdiction of the
Mississippi Transportation Commission for construction and
maintenance but which were relocated, replaced or bypassed by the
Mississippi Department of Transportation in construction of the
four-lane highway program under Section 65-3-97; and

(b) Those highways or portions of highways located
within municipalities that from and after July 1, 2002, are on the
designated state highway system and under the jurisdiction of the
Mississippi Transportation Commission for construction and
maintenance but which are relocated, replaced or bypassed by the
Mississippi Department of Transportation in construction of the
four-lane highway program under Section 65-3-97.

SECTION 3. This act shall take effect and be in force
from and after July 1, 2002.