

By: Representatives Maples, Pierce

To: Transportation

HOUSE BILL NO. 259

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

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

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

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



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



65 shall remove or cause to be removed by July 1, 1991, all
66 right-of-way encroachments along the entire length of the highway
67 or portion thereof which are not permitted by Highway Commission
68 and Highway Department policies and rules and regulations adopted
69 pursuant to state and federal law. Any such encroachments may be
70 allowed to remain only by permits issued by the State Highway
71 Department in the manner and subject to the same conditions for
72 the issuance of permits for similar encroachments on other
73 highways on the state highway system. If traffic counts indicate
74 that any highway or portions thereof placed under the jurisdiction
75 of the Highway Commission under the provisions of this section no
76 longer form a substantial part of the state highway system, the
77 Highway Commission may request the Legislature to remove such
78 highways or portions thereof from the state highway system and
79 return said roads for maintenance to the county or municipality in
80 which they are located, as provided in subsection (2) of this
81 section. The highways which the Highway Department is required to
82 continue to maintain by virtue of the provisions of this section
83 shall be in addition to the total mileage limitation of eight
84 thousand six hundred (8,600) miles provided in Section 65-3-3.

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

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



97 (b) Those highways or portions of highways located
98 within counties or municipalities that from and after July 1,
99 2002, are on the designated state highway system and under the
100 jurisdiction of the Mississippi Transportation Commission for
101 construction and maintenance but which are relocated, replaced or
102 bypassed by the Mississippi Department of Transportation in
103 construction of the four-lane highway program under Section
104 65-3-97.

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

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

113 65-1-75. (1) The Mississippi Transportation Commission is
114 authorized and empowered to have the transportation department
115 locate, construct, reconstruct and maintain any designated state
116 highway under its jurisdiction to, through, across or around any
117 municipality in the state, regardless of the width of the street
118 between curbs; and in so locating it is fully empowered to follow
119 the route of the existing street or to depart therefrom, as in its
120 discretion it deems advisable, and to obtain and pay for the
121 necessary rights-of-way, as provided in Section 65-1-47. The
122 municipality in which such construction is to be undertaken is
123 likewise authorized to acquire rights-of-way on any such streets
124 or on any newly located routes, either by purchase, gift or
125 condemnation. Such rights-of-way may be acquired by either the
126 municipality or the transportation department, subject to the
127 approval of the commission, and the cost thereof may be borne by
128 either or both as may be mutually agreed upon. In any event such
129 municipality may be required to save the commission and department



130 harmless from any claims for damages arising from the construction
131 of the highway through such municipality, including claims for
132 rights-of-way, change of grade line, interference with public
133 structures, and any and all damages so arising. Municipalities
134 may secure additional improvements by payment of the additional
135 cost of same. The commission may require such municipality to
136 cause to be laid all water, sewer, gas or other pipelines or
137 conduits, together with all necessary house or lot connections or
138 services, to the curb line of such road or street to be
139 constructed, and the commission is authorized to refuse to have
140 the department lay such pipelines or conduits beneath such roads
141 or streets until the municipality has laid same or entered into an
142 agreement to reimburse the commission or department for the
143 expense thereby incurred.

144 (2) All construction of state highways in or through
145 municipalities, where done at the cost and expense of the state,
146 whether heretofore or hereafter, shall be maintained in the same
147 manner and to the same extent as is construction on state highways
148 outside the limits of municipalities to the end that investment of
149 the state in such highway so constructed may be preserved and
150 maintained; and all reasonable rules and regulations with
151 reference to the preservation and maintenance of such highways
152 constructed at state expense, whether within or without municipal
153 limits, may be promulgated by the commission, except that it shall
154 have no power to promulgate police regulations contrary to
155 existing law. On any municipal streets or parts or sections
156 thereof taken over for regular maintenance and maintained by the
157 department as a part of the state highway system, the municipality
158 shall not be liable for negligence occasioned by the maintenance
159 or repair of such streets thus apportioned to and of such width as
160 is maintained by the department. The municipality shall have full
161 control and responsibility beyond the curb lines of any designated
162 highway or street, whether heretofore or hereafter so designated,



163 (except the interstate system) located within its present or
164 future expanded municipal corporate limits, regardless of the
165 ownership of the right-of-way, including but not limited to, the
166 construction and maintenance of sidewalks, grass mowing and
167 drainage systems; however, the department may utilize the
168 right-of-way purchased by the commission without any additional
169 cost or permission.

170 The municipality shall not allow any encroachments, signs or
171 billboards to be erected or to remain on state-owned rights-of-way
172 on any designated highway within its corporate limits without the
173 consent of the commission. The municipality, at its own expense,
174 shall provide street illumination and shall clean all streets,
175 including storm sewer inlets and catch basins. The commission may
176 enter into an agreement with the municipality or with a private
177 entity to sweep and clean the designated highways within or
178 without the corporate limits. The commission may, at state
179 expense, provide illumination and may clean all interstate
180 highways within the corporate limits of any municipality. The
181 right of the municipality to grant franchises over, beneath and
182 upon such streets is specifically retained, but the municipality
183 shall require every grantee of a franchise to restore, repair and
184 replace to its original condition any portion of any such street
185 damaged or injured by it; however, permission to open the surface
186 of any municipal street maintained by the department must be
187 obtained from both the commission and the municipality concerned
188 before any such opening is made. Each municipality shall retain
189 full police power over its streets, particularly as to regulating
190 and enforcing traffic and parking restrictions on such streets,
191 but any traffic control and parking regulations repugnant to state
192 law shall be null and void. The commission shall have the
193 department erect, control and maintain all highway route markers
194 and directional signs on such streets at state expense. The
195 commission, at state expense, shall have the department install,



196 operate, maintain, control, and have full jurisdiction over, all
197 traffic control devices, including, but not limited to, signals,
198 signs, striping and lane markings on state highway streets in
199 municipalities having a population of twenty thousand (20,000) or
200 less according to the current U.S. census; but municipalities over
201 twenty thousand (20,000) population according to such census shall
202 install, operate, maintain and control such devices at their own
203 expense, subject to approval of the executive director regarding
204 operations, method of installation and type only. Municipalities
205 having a population of five thousand (5,000) or more but less than
206 twenty thousand (20,000) according to the most recent federal
207 census shall only be responsible for electrical operating costs;
208 and all other costs for the installation, operation and
209 maintenance of traffic control devices, including the changing of
210 signal bulbs in traffic signal lights, shall be the responsibility
211 of the transportation department. The commission may purchase at
212 state expense and install traffic control devices in
213 municipalities over twenty thousand (20,000) population and donate
214 them to the municipalities for operation and maintenance whenever
215 it appears to the commission that, in the interest of safety or
216 convenience of the motoring public, any of the devices should be
217 upgraded, replaced or removed. Any revenue from parking meters on
218 any such streets shall be controlled by and belong to the
219 municipality.

220 (3) The maintenance of all streets within the limits of any
221 municipality in this state, regardless of size, which are
222 presently being regularly maintained, in whole or in part, by the
223 department at state expense as a part or parts of any designated
224 state highway shall be continued. Whenever any state highway runs
225 into or through the corporate limits of any municipality, the
226 municipal street or the street utilized and marked as a part of
227 any such state highway may be a part of the state highway system
228 and may be maintained by the department; however, such route



229 through any municipality shall be selected by the commission by
230 orders spread on its minutes describing all such routes, and such
231 route or routes may be changed, relocated or abandoned by the
232 commission from time to time, all under the provisions, terms and
233 conditions herein provided, but the commission shall have the
234 department maintain only one (1) route of any highway through a
235 municipality. Upon relocation of such state highway or
236 abandonment thereof, the municipal street formerly used as a state
237 highway shall thereby return to the jurisdiction of, and
238 maintenance by, the municipality.

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

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

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

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

