

By: Senator(s) Dearing

To: Highways and
Transportation

SENATE BILL NO. 2070

1 AN ACT TO AMEND SECTION 65-1-123, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE THE MISSISSIPPI TRANSPORTATION COMMISSION TO ADOPT
3 RULES AND REGULATIONS REGARDING THE MANAGEMENT, SALE OR DISPOSAL
4 OF TIMBER ON HIGHWAY RIGHTS-OF-WAY; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 65-1-123, Mississippi Code of 1972, is
7 amended as follows:

8 65-1-123. (1) Except as otherwise provided in subsection
9 (9) of this section, whenever any personal property has been
10 acquired in any manner by the Mississippi Transportation
11 Commission for public use and in the opinion of the commission,
12 all or any part of the property becomes unnecessary for public
13 use, the commission is authorized to dispose of such property for
14 a fair and reasonable cash market price. Any such sale shall be a
15 sale upon the receipt of sealed bids after reasonable
16 advertisement for bids in such manner and at such time and place
17 as the commission may deem proper and advisable, except that the
18 commission may sell at private sale any such personal property not
19 necessary for public purposes the cash market value of which is
20 less than Five Hundred Dollars (\$500.00) * * *. The commission
21 shall have the right to reject any and all bids in its discretion
22 and to sell the property theretofore advertised at private sale
23 for not less than the highest of the rejected bids, or to
24 readvertise.

25 (2) Except as otherwise provided in subsections (3) and (4)
26 of this section, whenever real property, with the exception of
27 easements for highway purposes, has been acquired by the
28 Mississippi Transportation Commission, in any manner, for public



29 use and in the opinion of the commission all or any part thereof
30 becomes unnecessary for public use, the same shall be declared on
31 the minutes of the commission as excess property and shall be sold
32 at private sale at market value. If the excess property was a
33 total take from the original owner, then the commission shall
34 offer to such owner, in writing, the first right of refusal to
35 purchase such excess property; however, if after due diligence the
36 original owner cannot be located, then the commission shall offer
37 the first right of refusal to purchase the property to the
38 adjoining property owner or owners. If the excess property was a
39 partial take from the current owner of the parcel of real property
40 from which the excess property was originally taken, then the
41 commission shall be required to offer in writing the first right
42 of refusal to purchase such excess property to such owner. If
43 within forty-five (45) days any owner to whom the commission has
44 offered the first right of refusal under the provisions of this
45 subsection fails to accept the offer to purchase, the property
46 shall then be offered to the adjoining property owner or owners.
47 If within forty-five (45) days an adjoining property owner fails
48 to accept the offer to purchase, then the excess property shall be
49 sold to the highest bidder upon the receipt by the commission of
50 sealed bids after reasonable advertisement for bids in such manner
51 and at such time and place as the commission deems proper and
52 advisable; however, the commission shall have the right to reject
53 any and all bids in its discretion and to sell the property
54 theretofore advertised at private sale for not less than the
55 highest of the rejected bids, or to readvertise. Upon payment of
56 the purchase price, the executive director of the department, upon
57 due authorization by the commission entered on its minutes, may
58 execute a quitclaim deed conveying such property to the purchaser.

59 (3) Whenever the commission acquires by fee simple interest
60 any property determined to be an uneconomic remnant outside the
61 right-of-way, then the commission may sell the property to the



62 adjoining property owner or owners for an amount not less than the
63 market value established by the county tax assessor or a state
64 licensed or certified appraiser.

65 (4) Whenever the commission desires to sell any real
66 property used as maintenance lots, the property shall be sold to
67 the highest bidder upon the receipt by the commission of sealed
68 bids and after reasonable advertisement for bids in such manner
69 and at such time and place as the commission deems proper and
70 advisable; however, the commission, in its discretion, may reject
71 any and all bids and sell the property advertised at private sale
72 for not less than the highest of the rejected bids, or may
73 readvertise. Upon payment of the purchase price, the executive
74 director of the department, upon authorization by the commission
75 entered on its minutes, may execute a quitclaim deed conveying the
76 property to the purchaser.

77 (5) All easements for highway purposes shall be released
78 when they are determined on the minutes of the commission as no
79 longer needed for such purposes, and when released, they shall be
80 filed by the department in the office of the chancery clerk in the
81 county where the property is located.

82 (6) In no instance shall any part of any property acquired
83 by the commission, or any interest acquired in such property,
84 including, but not limited to, easements, be construed as
85 abandoned by nonuse, nor shall any encroachment on such property
86 for any length of time constitute estoppel or adverse possession
87 against the state's interests.

88 (7) It is the intent of the Legislature that the
89 Transportation Commission shall declare property it has acquired
90 and which is no longer needed for public purposes as excess and to
91 sell and/or dispose of such excess property in accordance with the
92 provisions of this section as soon as practicable after such
93 property becomes excess in fact. Unnecessary or excess property
94 or property interests shall be disposed of only upon order of the



95 Transportation Commission on its minutes as provided in this
96 section.

97 (8) Whenever any real property has been acquired by the
98 Transportation Commission and in the opinion of the commission all
99 or any part of the property will not be utilized in the near
100 future, the property shall be so declared by the Transportation
101 Commission on its minutes and the commission may lease or rent the
102 property for its market value.

103 (9) The Mississippi Transportation Commission may adopt such
104 rules and regulations with regard to the management, sale or
105 disposal of timber on highway rights-of-way as it considers
106 appropriate; provided, however, such rules and regulations shall
107 be uniform throughout the state and shall be designed to maximize
108 the value of such timber or minimize the cost of removing such
109 timber.

110 **SECTION 2.** This act shall take effect and be in force from
111 and after July 1, 2002.

