

By: Senator(s) Kirby

To: Highways and
Transportation

SENATE BILL NO. 2174

1 AN ACT TO AMEND SECTION 65-1-8, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE THE MISSISSIPPI TRANSPORTATION COMMISSION TO PURCHASE
3 EMPLOYMENT PRACTICES LIABILITY INSURANCE AND AN EXCESS POLICY TO
4 COVER CATASTROPHIC LOSSES INCURRED UNDER THE COMMISSION'S
5 SELF-INSURED WORKERS' COMPENSATION PROGRAM; 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
39 as 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
87 or other pipelines; or other similar obstructions on the
88 right-of-way or such other places where removal is required by
89 law, the owners thereof shall at their own expense move or change
90 the same to conform to the order of the commission. Any violation
91 of such rules or regulations or noncompliance with such orders
92 shall 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 (1) 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 Section 99-15-26, Mississippi Code of 1972, or the Pretrial
212 Intervention Act, being Sections 99-15-101 through 99-15-127,
213 Mississippi Code of 1972. The commission is authorized to enter
214 into any agreements with the Department of Corrections, the State
215 Parole Board, any criminal court of this state and any other
216 proper official regarding the working, guarding, safekeeping,
217 clothing 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 highway construction projects.

248 (ii) Such an agreement may permit the cost of a
249 highway construction 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 highway
253 construction funds 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 construction project, and no other scheduled highway
258 construction project established by statute or by the commission



259 may be delayed by an advanced funding project authorized under
260 this paragraph (z). Repayments to an entity that advances funds
261 to the Mississippi Transportation Commission under this paragraph
262 (z) may not include interest or other fees or charges, and the
263 total amount repaid shall not exceed the total amount of funds
264 advanced 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 highway construction, the urgency of the public's need for swift
269 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 (aa) The Mississippi Transportation Commission, in its
277 discretion, may purchase employment practices liability insurance,
278 and may purchase an excess policy to cover catastrophic losses
279 incurred under the commission's self-insured workers' compensation
280 program authorized under Section 71-3-5. Such policies shall be
281 written by the agent or agents of a company or companies
282 authorized to do business in the State of Mississippi. The
283 deductibles shall be in an amount deemed reasonable and prudent by
284 the commission, and the premiums thereon shall be paid from the
285 State Highway Fund. Purchase of insurance under this paragraph
286 shall not serve as an actual or implied waiver of sovereign
287 immunity or of any protection afforded the commission under the
288 Mississippi Tort Claims Act.

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

