

By: Representative Maples

To: Transportation

HOUSE BILL NO. 31

1 AN ACT TO AMEND SECTIONS 65-1-59 AND 65-1-75, MISSISSIPPI
2 CODE OF 1972, TO PROVIDE THAT THE MISSISSIPPI TRANSPORTATION
3 COMMISSION SHALL RETAIN AND HAVE THE MISSISSIPPI DEPARTMENT OF
4 TRANSPORTATION MAINTAIN AS A STATE HIGHWAY A CERTAIN PORTION OF
5 MISSISSIPPI HIGHWAY 63 IN GEORGE COUNTY AND THE CITY OF LUCEDALE
6 THAT HAS BEEN REPLACED BY THE TRANSPORTATION DEPARTMENT WITH A
7 MUNICIPAL BYPASS; AND FOR RELATED PURPOSES.

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

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

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



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



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

86 (2) The Mississippi Transportation Commission shall, no
87 later than October 1, 1981, and October 1 each year thereafter,
88 furnish the Transportation Committee of the House of
89 Representatives and the Highways and Transportation Committee of
90 the Senate a recommendation for deletion of those highways or
91 sections of highways which should be removed from the system.

92 (3) Notwithstanding any other provisions of this section to
93 the contrary, the Mississippi Transportation Commission shall
94 retain and have the Mississippi Department of Transportation
95 maintain as a state highway that portion of Mississippi Highway 63



96 in George County and the City of Lucedale, beginning at or near
97 Sally Parker Road and extending northerly to U.S. Highway 98, that
98 has been replaced by the Transportation Department with a
99 municipal bypass.

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

102 65-1-75. (1) The Mississippi Transportation Commission is
103 authorized and empowered to have the Transportation Department
104 locate, construct, reconstruct and maintain any designated state
105 highway under its jurisdiction to, through, across or around any
106 municipality in the state, regardless of the width of the street
107 between curbs; and in so locating it is fully empowered to follow
108 the route of the existing street or to depart therefrom, as in its
109 discretion it deems advisable, and to obtain and pay for the
110 necessary rights-of-way, as provided in Section 65-1-47. The
111 municipality in which such construction is to be undertaken is
112 likewise authorized to acquire rights-of-way on any such streets
113 or on any newly located routes, either by purchase, gift or
114 condemnation. Such rights-of-way may be acquired by either the
115 municipality or the Transportation Department, subject to the
116 approval of the commission, and the cost thereof may be borne by
117 either or both as may be mutually agreed upon. In any event such
118 municipality may be required to save the commission and department
119 harmless from any claims for damages arising from the construction
120 of the highway through such municipality, including claims for
121 rights-of-way, change of grade line, interference with public
122 structures, and any and all damages so arising. Municipalities
123 may secure additional improvements by payment of the additional
124 cost of same. The commission may require such municipality to
125 cause to be laid all water, sewer, gas or other pipelines or
126 conduits, together with all necessary house or lot connections or
127 services, to the curb line of such road or street to be
128 constructed, and the commission is authorized to refuse to have



129 the department lay such pipelines or conduits beneath such roads
130 or streets until the municipality has laid same or entered into an
131 agreement to reimburse the commission or department for the
132 expense thereby incurred.

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

159 The municipality shall not allow any encroachments, signs or
160 billboards to be erected or to remain on state-owned rights-of-way
161 on any designated highway within its corporate limits without the



162 consent of the commission. The municipality, at its own expense,
163 shall provide street illumination and shall clean all streets,
164 including storm sewer inlets and catch basins. The commission may
165 enter into an agreement with the municipality or with a private
166 entity to sweep and clean the designated highways within or
167 without the corporate limits. The commission may, at state
168 expense, provide illumination and may clean all interstate
169 highways within the corporate limits of any municipality. The
170 right of the municipality to grant franchises over, beneath and
171 upon such streets is specifically retained, but the municipality
172 shall require every grantee of a franchise to restore, repair and
173 replace to its original condition any portion of any such street
174 damaged or injured by it; however, permission to open the surface
175 of any municipal street maintained by the department must be
176 obtained from both the commission and the municipality concerned
177 before any such opening is made. Each municipality shall retain
178 full police power over its streets, particularly as to regulating
179 and enforcing traffic and parking restrictions on such streets,
180 but any traffic control and parking regulations repugnant to state
181 law shall be null and void. The commission shall have the
182 department erect, control and maintain all highway route markers
183 and directional signs on such streets at state expense. The
184 commission, at state expense, shall have the department install,
185 operate, maintain, control, and have full jurisdiction over, all
186 traffic control devices, including, but not limited to, signals,
187 signs, striping and lane markings on state highway streets in
188 municipalities having a population of twenty thousand (20,000) or
189 less according to the current United States census; but
190 municipalities over twenty thousand (20,000) population according
191 to such census shall install, operate, maintain and control such
192 devices at their own expense, subject to approval of the executive
193 director regarding operations, method of installation and type
194 only. Municipalities having a population of five thousand (5,000)



195 or more but less than twenty thousand (20,000) according to the
196 most recent federal census shall only be responsible for
197 electrical operating costs; and all other costs for the
198 installation, operation and maintenance of traffic control
199 devices, including the changing of signal bulbs in traffic signal
200 lights, shall be the responsibility of the Transportation
201 Department. The commission may purchase at state expense and
202 install traffic control devices in municipalities over twenty
203 thousand (20,000) population and donate them to the municipalities
204 for operation and maintenance whenever it appears to the
205 commission that, in the interest of safety or convenience of the
206 motoring public, any of the devices should be upgraded, replaced
207 or removed. Any revenue from parking meters on any such streets
208 shall be controlled by and belong to the municipality.

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



228 (4) Notwithstanding any other provisions of this section to
229 the contrary, the Mississippi Transportation Commission shall
230 retain and have the Mississippi Department of Transportation
231 continue to maintain as a state highway that portion of
232 Mississippi Highway 63 in George County and the City of Lucedale,
233 beginning at or near Sally Parker Road and extending northerly to
234 U.S. Highway 98, that has been replaced by the Transportation
235 Department with a municipal bypass.

236 **SECTION 3.** This act shall take effect and be in force from
237 and after July 1, 2003.

