

By: Representative Maples

To: Transportation

HOUSE BILL NO. 32

1 AN ACT TO AMEND SECTIONS 65-1-59 AND 65-1-75, MISSISSIPPI
 2 CODE OF 1972, TO PROVIDE THAT THOSE PORTIONS OF HIGHWAY ON THE
 3 STATE HIGHWAY SYSTEM THAT, FROM AND AFTER JULY 1, 2000, ARE
 4 RELOCATED, REPLACED OR BYPASSED BY THE MISSISSIPPI DEPARTMENT OF
 5 TRANSPORTATION IN CONSTRUCTION OF THE FOUR-LANE HIGHWAY PROGRAM
 6 SHALL NOT RETURN TO THE JURISDICTION OF THE COUNTY OR MUNICIPALITY
 7 WHERE LOCATED BUT SHALL REMAIN AS PART OF THE STATE HIGHWAY SYSTEM
 8 AND SHALL BE UNDER THE JURISDICTION OF THE MISSISSIPPI
 9 TRANSPORTATION COMMISSION FOR CONSTRUCTION AND MAINTENANCE; AND
 10 FOR RELATED PURPOSES.

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

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

14 65-1-59. (1) It shall be the duty of the Mississippi
 15 Transportation Commission to have the Mississippi Transportation
 16 Department carry out all contracts and agreements, including
 17 federal-aid projects and agreements under the County Highway Aid
 18 Law of 1946, being Sections 65-11-1 through 65-11-37, heretofore
 19 made or entered into with any county, subject, however, to
 20 applicable rules and regulations of the Federal Highway
 21 Administration. It shall be the duty of the Transportation
 22 Commission to continue to have the Mississippi Transportation
 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 Mississippi Transportation
 28 Commission and Mississippi Transportation Department; however,
 29 except as otherwise provided in this section, if any highway or
 30 link of highway is removed from the state highway system by
 31 legislative act or by relocation or reconstruction, it shall no



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



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

89 (2) Notwithstanding any other provisions of this section to
90 the contrary, those portions of any highway on the designated
91 state highway system that, from and after July 1, 2000, are
92 relocated, replaced or bypassed by the Mississippi Department of
93 Transportation in construction of the four-lane highway program
94 under Section 65-3-97, shall not return to the jurisdiction of the
95 county or municipality where located, but shall remain as part of
96 the designated state highway system and shall be under the



97 jurisdiction of the Mississippi Transportation Commission for
98 construction and maintenance.

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

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

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



130 cause to be laid all water, sewer, gas or other pipelines or
131 conduits, together with all necessary house or lot connections or
132 services, to the curb line of such road or street to be
133 constructed, and the commission is authorized to refuse to have
134 the department lay such pipelines or conduits beneath such roads
135 or streets until the municipality has laid same or entered into an
136 agreement to reimburse the commission or department for the
137 expense thereby incurred.

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



162 right-of-way purchased by the commission without any additional
163 cost or permission.

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



195 municipalities over twenty thousand (20,000) population according
196 to such census shall install, operate, maintain and control such
197 devices at their own expense, subject to approval of the executive
198 director regarding operations, method of installation and type
199 only. Municipalities having a population of five thousand (5,000)
200 or more but less than twenty thousand (20,000) according to the
201 most recent federal census shall only be responsible for
202 electrical operating costs; and all other costs for the
203 installation, operation and maintenance of traffic control
204 devices, including the changing of signal bulbs in traffic signal
205 lights, shall be the responsibility of the Transportation
206 Department. The commission may purchase at state expense and
207 install traffic control devices in municipalities over twenty
208 thousand (20,000) population and donate them to the municipalities
209 for operation and maintenance whenever it appears to the
210 commission that, in the interest of safety or convenience of the
211 motoring public, any of the devices should be upgraded, replaced
212 or removed. Any revenue from parking meters on any such streets
213 shall be controlled by and belong to the municipality.

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



228 department maintain only one (1) route of any highway through a
229 municipality. Upon relocation of such state highway or
230 abandonment thereof, the municipal street formerly used as a state
231 highway shall thereby return to the jurisdiction of, and
232 maintenance by, the municipality.

233 (4) Notwithstanding any other provisions of this section to
234 the contrary, those portions of any highway on the designated
235 state highway system that, from and after July 1, 2000, are
236 relocated, replaced or bypassed by the Mississippi Department of
237 Transportation in construction of the four-lane highway program
238 under Section 65-3-97, shall not return to the jurisdiction of the
239 municipality where located, but shall remain as part of the
240 designated state highway system and shall be under the
241 jurisdiction of the Mississippi Transportation Commission for
242 construction and maintenance.

243 **SECTION 3.** This act shall take effect and be in force from
244 and after its passage.

