

By: Senator(s) Dearing

To: Highways and
Transportation

SENATE BILL NO. 2102
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 65-1-123, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT THE MISSISSIPPI TRANSPORTATION COMMISSION MAY
3 ENTER INTO AN AGREEMENT WITH THE STATE FORESTRY COMMISSION FOR THE
4 GENERAL SUPERVISION AND MANAGEMENT OF TIMBER ON SELECTED PORTIONS
5 OF THE RIGHTS-OF-WAY OF THE INTERSTATE HIGHWAY SYSTEM AND
6 COMPLETED SEGMENTS OF FOUR-LANE HIGHWAYS; TO PROVIDE THAT A
7 PORTION OF THE MONEY COLLECTED FROM THE SALE OF TIMBER ON
8 RIGHTS-OF-WAY SHALL BE DEPOSITED INTO THE EDUCATION ENHANCEMENT
9 FUND AND THE REMAINDER SHALL BE DEPOSITED INTO THE STATE HIGHWAY
10 FUND; TO AUTHORIZE THE MISSISSIPPI TRANSPORTATION COMMISSION,
11 AFTER CONSULTATION WITH THE STATE FORESTRY COMMISSION, TO ADOPT
12 RULES AND REGULATIONS REGARDING THE MANAGEMENT, SALE OR DISPOSAL
13 OF TIMBER ON HIGHWAY RIGHTS-OF-WAY; AND FOR RELATED PURPOSES.

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

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

17 65-1-123. (1) Except as otherwise provided in subsection
18 (10) of this section, whenever any personal property has been
19 acquired in any manner by the Mississippi Transportation
20 Commission for public use and in the opinion of the commission,
21 all or any part of the property becomes unnecessary for public
22 use, the commission is authorized to dispose of such property for
23 a fair and reasonable cash market price. Any such sale shall be a
24 sale upon the receipt of sealed bids after reasonable
25 advertisement for bids in such manner and at such time and place
26 as the commission may deem proper and advisable, except that the
27 commission may sell at private sale any such personal property not
28 necessary for public purposes the cash market value of which is
29 less than Five Hundred Dollars (\$500.00); however, if the personal
30 property is timber, the commission may sell at private sale any
31 such timber not necessary for public purposes the cash market
32 value of which is less than Five Thousand Dollars (\$5,000.00),



33 except that whenever persons, groups or agencies are permitted to
34 remove a quantity of timber from highway rights-of-way, and the
35 cash market value of the timber is estimated by the commission to
36 be less than One Thousand Dollars (\$1,000.00), it shall not be
37 necessary to have the timber cruised or appraised and the
38 commission may sell the timber at private sale. The commission
39 shall have the right to reject any and all bids in its discretion
40 and to sell the property theretofore advertised at private sale
41 for not less than the highest of the rejected bids, or to
42 readvertise.

43 (2) Except as otherwise provided in subsections (3) and (4)
44 of this section, whenever real property, with the exception of
45 easements for highway purposes, has been acquired by the
46 Mississippi Transportation Commission, in any manner, for public
47 use and in the opinion of the commission all or any part thereof
48 becomes unnecessary for public use, the same shall be declared on
49 the minutes of the commission as excess property and shall be sold
50 at private sale at market value. If the excess property was a
51 total take from the original owner, then the commission shall
52 offer to such owner, in writing, the first right of refusal to
53 purchase such excess property; however, if after due diligence the
54 original owner cannot be located, then the commission shall offer
55 the first right of refusal to purchase the property to the
56 adjoining property owner or owners. If the excess property was a
57 partial take from the current owner of the parcel of real property
58 from which the excess property was originally taken, then the
59 commission shall be required to offer in writing the first right
60 of refusal to purchase such excess property to such owner. If
61 within forty-five (45) days any owner to whom the commission has
62 offered the first right of refusal under the provisions of this
63 subsection fails to accept the offer to purchase, the property
64 shall then be offered to the adjoining property owner or owners.
65 If within forty-five (45) days an adjoining property owner fails



66 to accept the offer to purchase, then the excess property shall be
67 sold to the highest bidder upon the receipt by the commission of
68 sealed bids 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 shall have the right to reject
71 any and all bids in its discretion and to sell the property
72 theretofore advertised at private sale for not less than the
73 highest of the rejected bids, or to readvertise. Upon payment of
74 the purchase price, the executive director of the department, upon
75 due authorization by the commission entered on its minutes, may
76 execute a quitclaim deed conveying such property to the purchaser.

77 (3) Whenever the commission acquires by fee simple interest
78 any property determined to be an uneconomic remnant outside the
79 right-of-way, then the commission may sell the property to the
80 adjoining property owner or owners for an amount not less than the
81 market value established by the county tax assessor or a state
82 licensed or certified appraiser.

83 (4) Whenever the commission desires to sell any real
84 property used as maintenance lots, the property shall be sold to
85 the highest bidder upon the receipt by the commission of sealed
86 bids and after reasonable advertisement for bids in such manner
87 and at such time and place as the commission deems proper and
88 advisable; however, the commission, in its discretion, may reject
89 any and all bids and sell the property advertised at private sale
90 for not less than the highest of the rejected bids, or may
91 readvertise. Upon payment of the purchase price, the executive
92 director of the department, upon authorization by the commission
93 entered on its minutes, may execute a quitclaim deed conveying the
94 property to the purchaser.

95 (5) All easements for highway purposes shall be released
96 when they are determined on the minutes of the commission as no
97 longer needed for such purposes, and when released, they shall be



98 filed by the department in the office of the chancery clerk in the
99 county where the property is located.

100 (6) In no instance shall any part of any property acquired
101 by the commission, or any interest acquired in such property,
102 including, but not limited to, easements, be construed as
103 abandoned by nonuse, nor shall any encroachment on such property
104 for any length of time constitute estoppel or adverse possession
105 against the state's interests.

106 (7) It is the intent of the Legislature that the
107 Transportation Commission shall declare property it has acquired
108 and which is no longer needed for public purposes as excess and to
109 sell and/or dispose of such excess property in accordance with the
110 provisions of this section as soon as practicable after such
111 property becomes excess in fact. Unnecessary or excess property
112 or property interests shall be disposed of only upon order of the
113 Transportation Commission on its minutes as provided in this
114 section.

115 (8) Whenever any real property has been acquired by the
116 Transportation Commission and in the opinion of the commission all
117 or any part of the property will not be utilized in the near
118 future, the property shall be so declared by the Transportation
119 Commission on its minutes and the commission may lease or rent the
120 property for its market value.

121 (9) This section shall not apply to any sale, donation,
122 exchange or other conveyance of real property when the Legislature
123 otherwise expressly authorizes or directs the commission to sell,
124 donate, exchange or otherwise convey specifically described real
125 property.

126 (10) (a) As an alternative to the sale of timber under
127 subsection (1) of this section, the Mississippi Transportation
128 Commission may enter into an agreement with the State Forestry
129 Commission for the general supervision and management of timber on
130 selected portions of the rights-of-way of the interstate highway



131 system and those completed segments of four-lane highways in the
132 state. Such an agreement may prescribe the details of, and
133 authority and control over, the full range of forestry management
134 practices. Seventy-five percent (75%) of any money collected from
135 the sale of timber on rights-of-way, less any expenses associated
136 therewith, shall be deposited into the Education Enhancement Fund
137 created in Section 37-61-33, and the remainder shall be deposited
138 into the State Highway Fund to be expended solely for the repair,
139 maintenance, construction or reconstruction of highways.

140 (b) Subject to the provisions of paragraph (a) of this
141 subsection, the Mississippi Transportation Commission may, after
142 consultation with the State Forestry Commission, adopt such rules
143 and regulations with regard to the management, sale or disposal of
144 timber on highway rights-of-way as it considers appropriate;
145 provided, however, such rules and regulations shall be uniform
146 throughout the state and shall be designed to maximize the value
147 of such timber or minimize the cost of removing such timber.

148 **SECTION 2.** This act shall take effect and be in force from
149 and after July 1, 2003.

