SENATE BILL NO. 2403

AN ACT TO CREATE NEW SECTION 65-1-176, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE MISSISSIPPI TRANSPORTATION COMMISSION TO ACQUIRE, OWN AND OPERATE RAILROADS; TO AUTHORIZE THE COMMISSION TO UTILIZE EMINENT DOMAIN, INCLUDING THE RIGHT OF IMMEDIATE POSSESSION FOR SUCH PURPOSES; TO AMEND SECTION 11-27-81, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

SECTION 1. The following provision shall be codified as Section 65-1-176, Mississippi Code of 1972:

65-1-176. The Mississippi Transportation Commission shall have the power to acquire, construct, own, hold, control, use, extend, relocate, operate, maintain, repair, equip and lease railroads and any machinery, equipment or other facilities required and incidental to the ownership and operation of railroads. For such purposes the Mississippi Transportation Commission shall have the power to acquire rights-of-way, land, easements, property and interests in property by gift, purchase, condemnation or otherwise. In exercising the condemnation under this section, the commission shall condemn property in the manner provided by law including, but not limited to, the power to exercise the right of immediate possession under Sections 11-27-81 through 11-27-89.

SECTION 2. Section 11-27-81, Mississippi Code of 1972, is amended as follows:

11-27-81. The right of immediate possession pursuant to Sections 11-27-81 through 11-27-89, Mississippi Code of 1972, may be exercised only:
(a) By the Mississippi Transportation Commission for the acquisition of highway rights-of-way only;

(b) By any county or municipality for the purpose of acquiring rights-of-way to connect existing roads and streets to highways constructed or to be constructed by the State Highway Commission;

(c) By any county or municipality for the purpose of acquiring rights-of-way for widening existing roads and streets of such county or municipality; provided, however, that said rights-of-way shall not displace a property owner from his dwelling or place of business;

(d) By the boards of supervisors of any county of this state for the acquisition of highway or road rights-of-way in connection with a state-aid project designated and approved in accordance with Sections 65-9-1 through 65-9-31, Mississippi Code of 1972;

(e) By the Mississippi Wayport Authority for the purposes of acquiring land and easements for the Southeastern United States Wayport Project as authorized by Sections 61-4-1 through 61-4-13, Mississippi Code of 1972;

(f) By any county or municipality for the purpose of acquiring rights-of-way for water, sewer, drainage and other public utility purposes; provided, however, that such acquisition shall not displace a property owner from his dwelling or place of business;

(g) By any county authorized to exercise the power of eminent domain under Section 19-7-41 for the purpose of acquiring land for construction of a federal correctional facility or other federal penal institution;

(h) By the Mississippi Major Economic Impact Authority for the purpose of acquiring land, property and rights-of-way for a project as defined in Section 57-75-5(f)(iv)1 or any facility related to the project as provided in Section 57-75-11(e)(ii);
(i) By the boards of supervisors of any county of this state for the purpose of constructing dams or low-water control structures on lakes or bodies of water under the provisions of Section 19-5-92; *

(j) By the board of supervisors of any county of this state for the purpose of acquiring land, property and/or rights-of-way for any project the board of supervisors, by a duly adopted resolution, determines to be related to a project as defined in Section 57-75-5(f)(iv). The board of supervisors of a county may not exercise the right to immediate possession under this item (j) after July 1, 2003; or

(k) By the Mississippi Transportation Commission for the acquisition of rights-of-way, land, easement, property and other interests in property for railroad purposes as provided for in Section 1 of Senate Bill No. 2403, 2003 Regular Session.

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