

By: Representative Robinson (84th)

To: Transportation

HOUSE BILL NO. 364

1 AN ACT TO AMEND SECTION 65-1-8, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT NONPROFIT NATURAL GAS DISTRICTS SHALL NOT BE REQUIRED
3 TO BEAR THE COST OF REMOVAL OR RELOCATION OF THEIR LINES OR
4 FACILITIES FROM THE RIGHTS-OF-WAY OF STATE HIGHWAYS; TO PROVIDE
5 THAT THE MISSISSIPPI DEPARTMENT OF TRANSPORTATION SHALL BEAR THE
6 COST OF SUCH REMOVAL OR RELOCATION; AND FOR RELATED 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 * * *

11 65-1-8. (1) The Mississippi Transportation Commission shall
12 have the following general powers, duties and responsibilities:

13 (a) To coordinate and develop a comprehensive, balanced
14 transportation policy for the State of Mississippi;

15 (b) To promote the coordinated and efficient use of all
16 available and future modes of transportation;

17 (c) To make recommendations to the Legislature
18 regarding alterations or modifications in any existing
19 transportation policies;

20 (d) To study means of encouraging travel and
21 transportation of goods by the combination of motor vehicle and
22 other modes of transportation;

23 (e) To take such actions as are necessary and proper to
24 discharge its duties pursuant to the provisions of Laws, 1992,
25 Chapter 496, and any other provision of law;

26 (f) To receive and provide for the expenditure of any
27 funds made available to it by the Legislature, the federal
28 government or any other source.

29 (2) In addition to the general powers, duties and
30 responsibilities listed in subsection (1) of this section, the
31 Mississippi Transportation Commission shall have the following
32 specific powers:

33 (a) To make rules and regulations whereby the
34 Transportation Department shall change or relocate any and all
35 highways herein or hereafter fixed as constituting a part of the
36 state highway system, as may be deemed necessary or economical in
37 the construction or maintenance thereof; to acquire by gift,
38 purchase, condemnation or otherwise, land or other property
39 whatsoever that may be necessary for a state highway system as
40 herein provided, with full consideration to be given to the
41 stimulation of local public and private investment when acquiring
42 such property in the vicinity of Mississippi towns, cities and
43 population centers;

44 (b) To enforce by mandamus, or other proper legal
45 remedies, all legal rights or rights of action of the Mississippi
46 Transportation Commission with other public bodies, corporations
47 or persons;

48 (c) To make and publish rules, regulations and
49 ordinances for the control of and the policing of the traffic on
50 the state highways, and to prevent their abuse by any or all
51 persons, natural or artificial, by trucks, tractors, trailers or
52 any other heavy or destructive vehicles or machines, or by any
53 other means whatsoever, by establishing weights of loads or of
54 vehicles, types of tires, width of tire surfaces, length and width
55 of vehicles, with reasonable variations to meet approximate
56 weather conditions, and all other proper police and protective
57 regulations, and to provide ample means for the enforcement of
58 same. The violation of any of the rules, regulations or
59 ordinances so prescribed by the commission shall constitute a
60 misdemeanor. No rule, regulation or ordinance shall be made that
61 conflicts with any statute now in force or which may hereafter be

62 enacted, or with any ordinance of municipalities. A monthly
63 publication giving general information to the boards of
64 supervisors, employees and the public may be issued under such
65 rules and regulations as the commission may determine;

66 (d) To give suitable numbers to highways and to change
67 the number of any highway that shall become a part of the state
68 highway system. However, nothing herein shall authorize the
69 number of any highway to be changed so as to conflict with any
70 designation thereof as a U.S. numbered highway. Where, by a
71 specific act of the Legislature, the commission has been directed
72 to give a certain number to a highway, the commission shall not
73 have the authority to change such number;

74 (e) (i) To make proper and reasonable rules,
75 regulations, and ordinances for the placing, erection, removal or
76 relocation of telephone, telegraph or other poles, signboards,
77 fences, gas, water, sewerage, oil or other pipelines, and other
78 obstructions that may, in the opinion of the commission,
79 contribute to the hazards upon any of the state highways, or in
80 any way interfere with the ordinary travel upon such highways, or
81 the construction, reconstruction or maintenance thereof, and to
82 make reasonable rules and regulations for the proper control
83 thereof. Any violation of such rules or regulations or
84 noncompliance with such ordinances shall constitute a misdemeanor;

85 (ii) Except as otherwise provided for in this
86 paragraph, whenever the order of the commission shall require the
87 removal of, or other changes in the location of telephone,
88 telegraph or other poles, signboards, gas, water, sewerage, oil or
89 other pipelines; or other similar obstructions on the right-of-way
90 or such other places where removal is required by law, the owners
91 thereof shall at their own expense move or change the same to
92 conform to the order of the commission. Any violation of such
93 rules or regulations or noncompliance with such orders shall
94 constitute a misdemeanor;

95 (iii) Rural water districts, rural water systems,
96 nonprofit water associations and municipal public water systems in
97 municipalities with a population of ten thousand (10,000) or less,
98 according to the latest federal decennial census, shall not be
99 required to bear the cost and expense of removal and relocation of
100 water and sewer lines and facilities constructed or in place in
101 the rights-of-way of state highways. The cost and expense of such
102 removal and relocation, including any unpaid prior to July 1,
103 2002, shall be paid by the Department of Transportation;

104 (iv) Municipal public sewer systems and municipal
105 gas systems owned by municipalities with a population of ten
106 thousand (10,000) or less, according to the latest federal
107 decennial census, shall not be required to bear the cost and
108 expense of removal and relocation of lines and facilities
109 constructed or in place in the rights-of-way of state highways.
110 The cost and expense of such removal and relocation, including any
111 unpaid prior to July 1, 2003, shall be paid by the Department of
112 Transportation;

113 (v) Nonprofit natural gas districts shall not be
114 required to bear the cost and expense of removal and relocation of
115 lines and facilities constructed or in place in the rights-of-way
116 of state highways. The cost and expense of such removal and
117 relocation, including any unpaid before July 1, 2004, shall be
118 paid by the Department of Transportation;

119 (f) To regulate and abandon grade crossings on any road
120 fixed as a part of the state highway system, and whenever the
121 commission, in order to avoid a grade crossing with the railroad,
122 locates or constructs said road on one side of the railroad, the
123 commission shall have the power to abandon and close such grade
124 crossing, and whenever an underpass or overhead bridge is
125 substituted for a grade crossing, the commission shall have power
126 to abandon such grade crossing and any other crossing adjacent
127 thereto. Included in the powers herein granted shall be the power

128 to require the railroad at grade crossings, where any road of the
129 state highway system crosses the same, to place signal posts with
130 lights or other warning devices at such crossings at the expense
131 of the railroad, and to regulate and abandon underpass or overhead
132 bridges and, where abandoned because of the construction of a new
133 underpass or overhead bridge, to close such old underpass or
134 overhead bridge, or, in its discretion, to return the same to the
135 jurisdiction of the county board of supervisors;

136 (g) To make proper and reasonable rules and regulations
137 to control the cutting or opening of the road surfaces for
138 subsurface installations;

139 (h) To make proper and reasonable rules and regulations
140 for the removal from the public rights-of-way of any form of
141 obstruction, to cooperate in improving their appearance, and to
142 prescribe minimum clearance heights for seed conveyors, pipes,
143 passageways or other structure of private or other ownership above
144 the highways;

145 (i) To establish, and have the Transportation
146 Department maintain and operate, and to cooperate with the state
147 educational institutions in establishing, enlarging, maintaining
148 and operating a laboratory or laboratories for testing materials
149 and for other proper highway purposes;

150 (j) To provide, under the direction and with the
151 approval of the Department of Finance and Administration, suitable
152 offices, shops and barns in the City of Jackson;

153 (k) To establish and have enforced set-back
154 regulations;

155 (l) To cooperate with proper state authorities in
156 producing limerock for highway purposes and to purchase same at
157 cost;

158 (m) To provide for the purchase of necessary equipment
159 and vehicles and to provide for the repair and housing of same, to
160 acquire by gift, purchase, condemnation or otherwise, land or

161 lands and buildings in fee simple, and to authorize the
162 Transportation Department to construct, lease or otherwise provide
163 necessary and proper permanent district offices for the
164 construction and maintenance divisions of the department, and for
165 the repair and housing of the equipment and vehicles of the
166 department; however, in each Supreme Court district only two (2)
167 permanent district offices shall be set up, but a permanent status
168 shall not be given to any such offices until so provided by act of
169 the Legislature and in the meantime, all shops of the department
170 shall be retained at their present location. As many local or
171 subdistrict offices, shops or barns may be provided as is
172 essential and proper to economical maintenance of the state
173 highway system;

174 (n) To cooperate with the Department of Archives and
175 History in having placed and maintained suitable historical
176 markers, including those which have been approved and purchased by
177 the State Historical Commission, along state highways, and to have
178 constructed and maintained roadside driveways for convenience and
179 safety in viewing them when necessary;

180 (o) To cooperate, in its discretion, with the
181 Mississippi Department of Wildlife, Fisheries and Parks in
182 planning and constructing roadside parks upon the right-of-way of
183 state highways, whether constructed, under construction, or
184 planned; said parks to utilize where practical barrow pits used in
185 construction of state highways for use as fishing ponds. Said
186 parks shall be named for abundant flora and fauna existing in the
187 area or for the first flora or fauna found on the site;

188 (p) Unless otherwise prohibited by law, to make such
189 contracts and execute such instruments containing such reasonable
190 and necessary appropriate terms, provisions and conditions as in
191 its absolute discretion it may deem necessary, proper or
192 advisable, for the purpose of obtaining or securing financial
193 assistance, grants or loans from the United States of America or

194 any department or agency thereof, including contracts with several
195 counties of the state pertaining to the expenditure of such funds;

196 (q) To cooperate with the Federal Highway
197 Administration in the matter of location, construction and
198 maintenance of the Great River Road, to expend such funds paid to
199 the commission by the Federal Highway Administration or other
200 federal agency, and to authorize the Transportation Department to
201 erect suitable signs marking this highway, the cost of such signs
202 to be paid from state highway funds other than earmarked
203 construction funds;

204 (r) To cooperate, in its discretion, with the
205 Mississippi Forestry Commission and the School of Forestry,
206 Mississippi State University, in a forestry management program,
207 including planting, thinning, cutting and selling, upon the
208 right-of-way of any highway, constructed, acquired or maintained
209 by the Transportation Department, and to sell and dispose of any
210 and all growing timber standing, lying or being on any
211 right-of-way acquired by the commission for highway purposes in
212 the future; such sale or sales to be made in accordance with the
213 sale of personal property which has become unnecessary for public
214 use as provided for in Section 65-1-123, Mississippi Code of 1972;

215 (s) To expend funds in cooperation with the Division of
216 Plant Industry, Mississippi Department of Agriculture and
217 Commerce, the United States government or any department or agency
218 thereof, or with any department or agency of this state, to
219 control, suppress or eradicate serious insect pests, rodents,
220 plant parasites and plant diseases on the state highway
221 rights-of-way;

222 (t) To provide for the placement, erection and
223 maintenance of motorist services business signs and supports
224 within state highway rights-of-way in accordance with current
225 state and federal laws and regulations governing the placement of
226 traffic control devices on state highways, and to establish and

227 collect reasonable fees from the businesses having information on
228 such signs;

229 (u) To request and to accept the use of persons
230 convicted of an offense, whether a felony or a misdemeanor, for
231 work on any road construction, repair or other project of the
232 Transportation Department. The commission is also authorized to
233 request and to accept the use of persons who have not been
234 convicted of an offense but who are required to fulfill certain
235 court-imposed conditions pursuant to Section 41-29-150(d)(1) or
236 99-15-26, Mississippi Code of 1972, or the Pretrial Intervention
237 Act, being Sections 99-15-101 through 99-15-127, Mississippi Code
238 of 1972. The commission is authorized to enter into any
239 agreements with the Department of Corrections, the State Parole
240 Board, any criminal court of this state, and any other proper
241 official regarding the working, guarding, safekeeping, clothing
242 and subsistence of such persons performing work for the
243 Transportation Department. Such persons shall not be deemed
244 agents, employees or involuntary servants of the Transportation
245 Department while performing such work or while going to and from
246 work or other specified areas;

247 (v) To provide for the administration of the railroad
248 revitalization program pursuant to Section 57-43-1 et seq.;

249 (w) The Mississippi Transportation Commission is
250 further authorized, in its discretion, to expend funds for the
251 purchase of service pins for employees of the Mississippi
252 Transportation Department;

253 (x) To cooperate with the State Tax Commission by
254 providing for weight enforcement field personnel to collect and
255 assess taxes, fees and penalties and to perform all duties as
256 required pursuant to Section 27-55-501 et seq., Sections 27-19-1
257 et seq., 27-55-1 et seq., 27-59-1 et seq. and 27-61-1 et seq.,
258 Mississippi Code of 1972, with regard to vehicles subject to the
259 jurisdiction of the Office of Weight Enforcement. All collections

260 and assessments shall be transferred daily to the State Tax
261 Commission;

262 (y) The Mississippi Transportation Commission may
263 delegate the authority to enter into a supplemental agreement to a
264 contract previously approved by the commission if the supplemental
265 agreement involves an additional expenditure not to exceed One
266 Hundred Thousand Dollars (\$100,000.00);

267 (z) (i) The Mississippi Transportation Commission, in
268 its discretion, may enter into agreements with any county,
269 municipality, county transportation commission, business,
270 corporation, partnership, association, individual or other legal
271 entity, for the purpose of accelerating the completion date of
272 scheduled highway construction projects.

273 (ii) Such an agreement may permit the cost of a
274 highway construction project to be advanced to the commission by a
275 county, municipality, county transportation commission, business,
276 corporation, partnership, association, individual or other legal
277 entity, and repaid to such entity by the commission when highway
278 construction funds become available; provided, however, that
279 repayment of funds advanced to the Mississippi Transportation
280 Commission shall be made no sooner than the commission's
281 identified projected revenue schedule for funding of that
282 particular construction project, and no other scheduled highway
283 construction project established by statute or by the commission
284 may be delayed by an advanced funding project authorized under
285 this paragraph (z). Repayments to an entity that advances funds
286 to the Mississippi Transportation Commission under this paragraph
287 (z) may not include interest or other fees or charges, and the
288 total amount repaid shall not exceed the total amount of funds
289 advanced to the commission by the entity.

290 (iii) In considering whether to enter into such an
291 agreement, the commission shall consider the availability of
292 financial resources, the effect of such agreement on other ongoing

293 highway construction, the urgency of the public's need for swift
294 completion of the project and any other relevant factors.

295 (iv) Such an agreement shall be executed only upon
296 a finding by the commission, spread upon its minutes, that the
297 acceleration of the scheduled project is both feasible and
298 beneficial. The commission shall also spread upon its minutes its
299 findings with regard to the factors required to be considered
300 pursuant to item (iii) of this paragraph (z);

301 (aa) The Mississippi Transportation Commission, in its
302 discretion, may purchase employment practices liability insurance,
303 and may purchase an excess policy to cover catastrophic losses
304 incurred under the commission's self-insured workers' compensation
305 program authorized under Section 71-3-5. Such policies shall be
306 written by the agent or agents of a company or companies
307 authorized to do business in the State of Mississippi. The
308 deductibles shall be in an amount deemed reasonable and prudent by
309 the commission, and the premiums thereon shall be paid from the
310 State Highway Fund. Purchase of insurance under this paragraph
311 shall not serve as an actual or implied waiver of sovereign
312 immunity or of any protection afforded the commission under the
313 Mississippi Tort Claims Act;

314 (bb) The Mississippi Transportation Commission is
315 further authorized, in its discretion, to expend funds for the
316 purchase of promotional materials for safety purposes, highway
317 beautification purposes and recruitment purposes.

318 **SECTION 2.** This act shall take effect and be in force from
319 and after July 1, 2004.