

By: Representative Woods

To: Transportation

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1330

1 AN ACT TO AMEND SECTION 65-1-8, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT REPAYMENTS UNDER CERTAIN AGREEMENTS THAT PERMIT THE  
3 COST OF A HIGHWAY CONSTRUCTION PROJECT TO BE ADVANCED TO THE  
4 MISSISSIPPI TRANSPORTATION COMMISSION MAY NOT EXCEED 3.75% OF THE  
5 NET AMOUNT OF FEDERAL REIMBURSEMENTS TO THE DEPARTMENT OF  
6 TRANSPORTATION AND STATE FUNDS RECEIVED BY THE DEPARTMENT IN ANY  
7 ONE FISCAL YEAR; TO REQUIRE STATE BOND COMMISSION APPROVAL OF SUCH  
8 AGREEMENTS; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** Section 65-1-8, Mississippi Code of 1972, is  
11 amended as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

96                   (iii) Rural water districts, rural water systems,  
97 nonprofit water associations and municipal public water systems in  
98 municipalities with a population of ten thousand (10,000) or less,  
99 according to the latest federal decennial census, shall not be  
100 required to bear the cost and expense of removal and relocation of  
101 water and sewer lines and facilities constructed or in place in  
102 the rights-of-way of state highways. The cost and expense of such  
103 removal and relocation, including any unpaid prior to July 1,  
104 2002, shall be paid by the Department of Transportation;

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

114                   (f) To regulate and abandon grade crossings on any road  
115 fixed as a part of the state highway system, and whenever the  
116 commission, in order to avoid a grade crossing with the railroad,  
117 locates or constructs said road on one side of the railroad, the  
118 commission shall have the power to abandon and close such grade  
119 crossing, and whenever an underpass or overhead bridge is  
120 substituted for a grade crossing, the commission shall have power  
121 to abandon such grade crossing and any other crossing adjacent  
122 thereto. Included in the powers herein granted shall be the power  
123 to require the railroad at grade crossings, where any road of the  
124 state highway system crosses the same, to place signal posts with  
125 lights or other warning devices at such crossings at the expense  
126 of the railroad, and to regulate and abandon underpass or overhead  
127 bridges and, where abandoned because of the construction of a new  
128 underpass or overhead bridge, to close such old underpass or

overhead bridge, or, in its discretion, to return the same to the jurisdiction of the county board of supervisors;

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

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

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

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

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

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

(m) To provide for the purchase of necessary equipment and vehicles and to provide for the repair and housing of same, to acquire by gift, purchase, condemnation or otherwise, land or lands and buildings in fee simple, and to authorize the Transportation Department to construct, lease or otherwise provide necessary and proper permanent district offices for the construction and maintenance divisions of the department, and for the repair and housing of the equipment and vehicles of the department; however, in each Supreme Court district only two (2)

162 permanent district offices shall be set up, but a permanent status  
163 shall not be given to any such offices until so provided by act of  
164 the Legislature and in the meantime, all shops of the department  
165 shall be retained at their present location. As many local or  
166 subdistrict offices, shops or barns may be provided as is  
167 essential and proper to economical maintenance of the state  
168 highway system;

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

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

183           (p) Unless otherwise prohibited by law, to make such  
184 contracts and execute such instruments containing such reasonable  
185 and necessary appropriate terms, provisions and conditions as in  
186 its absolute discretion it may deem necessary, proper or  
187 advisable, for the purpose of obtaining or securing financial  
188 assistance, grants or loans from the United States of America or  
189 any department or agency thereof, including contracts with several  
190 counties of the state pertaining to the expenditure of such funds;

191           (q) To cooperate with the Federal Highway  
192 Administration in the matter of location, construction and  
193 maintenance of the Great River Road, to expend such funds paid to  
194 the commission by the Federal Highway Administration or other

195 federal agency, and to authorize the Transportation Department to  
196 erect suitable signs marking this highway, the cost of such signs  
197 to be paid from state highway funds other than earmarked  
198 construction funds;

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

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

217 (t) To provide for the placement, erection and  
218 maintenance of motorist services business signs and supports  
219 within state highway rights-of-way in accordance with current  
220 state and federal laws and regulations governing the placement of  
221 traffic control devices on state highways, and to establish and  
222 collect reasonable fees from the businesses having information on  
223 such signs;

224 (u) To request and to accept the use of persons  
225 convicted of an offense, whether a felony or a misdemeanor, for  
226 work on any road construction, repair or other project of the  
227 Transportation Department. The commission is also authorized to

request and to accept the use of persons who have not been convicted of an offense but who are required to fulfill certain court-imposed conditions pursuant to Section 41-29-150(d)(1) or 99-15-26, Mississippi Code of 1972, or the Pretrial Intervention Act, being Sections 99-15-101 through 99-15-127, Mississippi Code of 1972. The commission is authorized to enter into any agreements with the Department of Corrections, the State Parole Board, any criminal court of this state, and any other proper official regarding the working, guarding, safekeeping, clothing and subsistence of such persons performing work for the Transportation Department. Such persons shall not be deemed agents, employees or involuntary servants of the Transportation Department while performing such work or while going to and from work or other specified areas;

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

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

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

(3) The Mississippi Transportation Commission may delegate the authority to enter into a supplemental agreement to a contract previously approved by the commission if the supplemental



260 agreement involves an additional expenditure not to exceed One  
261 Hundred Thousand Dollars (\$100,000.00).

262       (4) (a) The Mississippi Transportation Commission, in its  
263 discretion, may enter into agreements with any county,  
264 municipality, county transportation commission, business,  
265 corporation, partnership, association, individual or other legal  
266 entity, for the purpose of accelerating the completion date of  
267 scheduled highway construction projects.

268       (b) Such an agreement may permit the cost of a highway  
269 construction project to be advanced to the commission by a county,  
270 municipality, county transportation commission, business,  
271 corporation, partnership, association, individual or other legal  
272 entity, and repaid to such entity by the commission when highway  
273 construction funds become available; \* \* \* however \* \* \*:

274               (i) Repayment of funds advanced to the Mississippi  
275 Transportation Commission shall be made no sooner than the  
276 commission's identified projected revenue schedule for funding of  
277 that particular construction project; \* \* \*

278               (ii) No other scheduled highway construction  
279 project established by statute or by the commission may be delayed  
280 by an advanced funding project authorized under this subsection;

281               (iii) Repayments to a private entity that advances  
282 funds to the Mississippi Transportation Commission under this  
283 subsection may not include interest or other fees or charges, and  
284 the total amount repaid shall not exceed the total amount of funds  
285 advanced to the commission by the entity;

286               (iv) The total amount of all repayments by the  
287 commission under this subsection (after federal reimbursement of  
288 the federal share of repayments) shall not exceed three and  
289 seventy-five one-hundredths percent (3.75%) of the department's  
290 annual expenditures. The term "annual expenditures" means the  
291 total amount of expenditures for all department programs for the  
292 fiscal year. This limitation shall only apply when the commission

293 considers whether to enter into an agreement pursuant to this  
294 subsection. The commission may approve such agreement only if the  
295 repayments do not exceed this limitation.

296         (c) In considering whether to enter into \* \* \* an  
297 agreement pursuant to this subsection, the commission shall  
298 consider the availability of financial resources, the effect of  
299 such agreement on other ongoing highway construction, the urgency  
300 of the public's need for swift completion of the project and any  
301 other relevant factors.

302         (d) An agreement entered into pursuant to this  
303 subsection shall be executed only upon a finding by the  
304 commission, spread upon its minutes, that the acceleration of the  
305 scheduled project is both feasible and beneficial. The commission  
306 shall also spread upon its minutes its findings with regard to the  
307 factors required to be considered pursuant to paragraph (c) of  
308 this subsection.

309         (e) The commission shall notify the State Bond  
310 Commission of the terms of any agreement authorized under this  
311 subsection.

312         (5) The Mississippi Transportation Commission, in its  
313 discretion, may purchase employment practices liability insurance,  
314 and may purchase an excess policy to cover catastrophic losses  
315 incurred under the commission's self-insured workers' compensation  
316 program authorized under Section 71-3-5. Such policies shall be  
317 written by the agent or agents of a company or companies  
318 authorized to do business in the State of Mississippi. The  
319 deductibles shall be in an amount deemed reasonable and prudent by  
320 the commission, and the premiums thereon shall be paid from the  
321 State Highway Fund. Purchase of insurance under this paragraph  
322 shall not serve as an actual or implied waiver of sovereign  
323 immunity or of any protection afforded the commission under the  
324 Mississippi Tort Claims Act.

325        (6)    The Mississippi Transportation Commission is \* \* \*  
326    authorized, in its discretion, to expend funds for the purchase of  
327    promotional materials for safety purposes, highway beautification  
328    purposes and recruitment purposes.  
329        **SECTION 2.**    This act shall take effect and be in force from  
330    and after its passage.