

By: Senator(s) Hewes, Lee (35th), Morgan,
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To: Highways and
Transportation

SENATE BILL NO. 2752

1 AN ACT TO AMEND SECTION 65-1-8, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE THE MISSISSIPPI TRANSPORTATION COMMISSION TO LEASE
3 ANTENNA SPACE ON COMMUNICATION TOWERS WHICH IT OWNS; AND FOR
4 RELATED PURPOSES.

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

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

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

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

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

14 (c) To make recommendations to the Legislature
15 regarding alterations or modifications in any existing
16 transportation policies;

17 (d) To study means of encouraging travel and
18 transportation of goods by the combination of motor vehicle and
19 other modes of transportation;

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

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

26 (2) In addition to the general powers, duties and
27 responsibilities listed in subsection (1) of this section, the

28 Mississippi Transportation Commission shall have the following
29 specific powers:

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

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

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

61 supervisors, employees and the public may be issued under such
62 rules and regulations as the commission may determine;

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

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

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

92 (iii) Rural water districts, rural water systems,
93 nonprofit water associations and municipal public water systems in

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

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

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

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

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

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

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

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

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

149 (m) To provide for the purchase of necessary equipment
150 and vehicles and to provide for the repair and housing of same, to
151 acquire by gift, purchase, condemnation or otherwise, land or
152 lands and buildings in fee simple, and to authorize the
153 Transportation Department to construct, lease or otherwise provide
154 necessary and proper permanent district offices for the
155 construction and maintenance divisions of the department, and for
156 the repair and housing of the equipment and vehicles of the
157 department; however, in each Supreme Court district only two (2)
158 permanent district offices shall be set up, but a permanent status
159 shall not be given to any such offices until so provided by act of

160 the Legislature and in the meantime, all shops of the department
161 shall be retained at their present location. As many local or
162 subdistrict offices, shops or barns may be provided as is
163 essential and proper to economical maintenance of the state
164 highway system;

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

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

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

187 (q) To cooperate with the Federal Highway
188 Administration in the matter of location, construction and
189 maintenance of the Great River Road, to expend such funds paid to
190 the commission by the Federal Highway Administration or other
191 federal agency, and to authorize the Transportation Department to
192 erect suitable signs marking this highway, the cost of such signs

193 to be paid from state highway funds other than earmarked
194 construction funds;

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

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

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

220 (u) To request and to accept the use of persons
221 convicted of an offense, whether a felony or a misdemeanor, for
222 work on any road construction, repair or other project of the
223 Transportation Department. The commission is also authorized to
224 request and to accept the use of persons who have not been
225 convicted of an offense but who are required to fulfill certain

226 court-imposed conditions pursuant to Section 41-29-150(d)(1) or
227 99-15-26, Mississippi Code of 1972, or the Pretrial Intervention
228 Act, being Sections 99-15-101 through 99-15-127, Mississippi Code
229 of 1972. The commission is authorized to enter into any
230 agreements with the Department of Corrections, the State Parole
231 Board, any criminal court of this state, and any other proper
232 official regarding the working, guarding, safekeeping, clothing
233 and subsistence of such persons performing work for the
234 Transportation Department. Such persons shall not be deemed
235 agents, employees or involuntary servants of the Transportation
236 Department while performing such work or while going to and from
237 work or other specified areas;

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

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

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

253 (y) The Mississippi Transportation Commission may
254 delegate the authority to enter into a supplemental agreement to a
255 contract previously approved by the commission if the supplemental
256 agreement involves an additional expenditure not to exceed One
257 Hundred Thousand Dollars (\$100,000.00);

258 (z) (i) The Mississippi Transportation Commission, in
259 its discretion, may enter into agreements with any county,
260 municipality, county transportation commission, business,
261 corporation, partnership, association, individual or other legal
262 entity, for the purpose of accelerating the completion date of
263 scheduled highway construction projects.

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

281 (iii) In considering whether to enter into such an
282 agreement, the commission shall consider the availability of
283 financial resources, the effect of such agreement on other ongoing
284 highway construction, the urgency of the public's need for swift
285 completion of the project and any other relevant factors.

286 (iv) Such an agreement shall be executed only upon
287 a finding by the commission, spread upon its minutes, that the
288 acceleration of the scheduled project is both feasible and
289 beneficial. The commission shall also spread upon its minutes its

290 findings with regard to the factors required to be considered
291 pursuant to item (iii) of this paragraph (z);

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

305 (bb) The Mississippi Transportation Commission is
306 further authorized, in its discretion, to expend funds for the
307 purchase of promotional materials for safety purposes, highway
308 beautification purposes and recruitment purposes;

309 (cc) To lease antenna space on communication towers
310 which it owns.

311 **SECTION 2.** This act shall take effect and be in force from
312 and after July 1, 2005.