

By: Senator(s) Jackson (32nd)

To: County Affairs; Highways and Transportation

SENATE BILL NO. 2812

1 AN ACT TO AMEND SECTION 65-18-9, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE THE AMOUNT OF STATE AID ROAD ALLOCATION OF A COUNTY FOR
3 USE IN THE CONSTRUCTION, RECONSTRUCTION OR PAVING OF LOCAL SYSTEM
4 ROADS TO BE UTILIZED FOR THE RETIREMENT OF ANY DEBT INCURRED BY
5 THE COUNTY FOR USE ON LOCAL SYSTEM ROADS; TO AMEND SECTIONS
6 65-18-11 AND 65-9-17, MISSISSIPPI CODE OF 1972, IN CONFORMITY
7 THERETO; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 65-18-9, Mississippi Code of 1972, is
10 amended as follows:

11 65-18-9. (1) If the county has met the requirements of this
12 chapter, the State Aid Engineer shall allocate annually the amount
13 of the state aid road allocation of a county that is requested by
14 such county for (a) use in the construction, reconstruction and
15 paving of local system roads in the county, or (b) for the
16 retirement of any debt incurred by the county for use in the
17 construction, reconstruction and paving of local system
18 roads; * * * however, * * * the State Aid Engineer shall not
19 allocate more than twenty-five percent (25%) of the annual state
20 aid road allocation of a county for such purposes.

21 (2) The State Aid Engineer shall allocate annually the
22 amount of the Local System Bridge Replacement and Rehabilitation
23 Program allocation of a county that is requested by such county
24 for use in the construction, reconstruction and paving of local
25 system roads in the county if:

26 (a) The State Aid Engineer has certified, pursuant to
27 Section 65-37-7, that all the local system bridges within the
28 county have a sufficiency rating of greater than fifty (50) or
29 that all such bridges within the county with a sufficiency rating

30 of fifty (50) or less are currently under contract for replacement
31 or rehabilitation; and

32 (b) The county has met the requirements of this
33 chapter.

34 (3) The State Aid Engineer shall establish specific designs
35 and standards to be followed by such counties in the construction,
36 reconstruction and paving of local system roads. The specific
37 designs and standards shall be based upon policies on geometric
38 design of local rural roads, highways and streets adopted and
39 published by the American Association of State Highway and
40 Transportation Officials.

41 **SECTION 2.** Section 65-18-11, Mississippi Code of 1972, is
42 amended as follows:

43 65-18-11. (1) In order for a county to be eligible to
44 utilize its Local System Bridge Replacement and Rehabilitation
45 Program allocation or any of its state aid road funds for the
46 Local System Road Program, a county must meet the following
47 conditions:

48 (a) The county has employed a county engineer, together
49 with such other technical assistance as is necessary to carry out
50 the duties of this chapter, the same as provided under the
51 provisions of Section 65-9-15, for its state aid road system and,
52 through its official minutes, has authorized the county engineer
53 to perform the necessary engineering services connected with the
54 Local System Road Program. The county engineer shall prepare the
55 necessary plans and designs for all construction projects,
56 including state aid projects and projects provided under this
57 chapter. He also shall provide engineering supervision for the
58 construction of such projects and shall approve all estimate
59 payments made on the projects. Engineering cost for any project
60 performed under the Local System Road Program may be paid from any
61 funds allocated to a county under the program; however, the
62 maximum fee paid to an engineer shall not exceed twelve percent

63 (12%) of the final construction cost. No such cost shall be
64 reimbursed to the county before the letting of the project; and

65 (b) The county has presented a plan for the
66 construction, reconstruction and paving of a local system road
67 which plan has been made and approved by the county engineer of
68 the county, showing the specific road or project to be improved,
69 stating the condition of the existing roadbed, drainage and
70 bridges and outlining the type of construction or reconstruction
71 to be made and the designs and specifications therefor, including
72 the paving of the road and the sources of revenue to be used and
73 the sources and types of material to be used thereon. The plan
74 shall be presented to the State Aid Engineer for the initial
75 approval of the beginning of a project to receive monies.

76 (2) After the initial approval of the plan and plans as
77 specified in subsection (1)(b) of this section has been made by
78 the State Aid Engineer, the county shall be eligible to receive
79 all funds made available to the county under the Local System Road
80 Program to be used exclusively for (a) the construction,
81 reconstruction or paving of the local system road, or (b) for
82 retiring any debt incurred by the county for the construction,
83 reconstruction or paving of local system roads. The project may
84 be done either by contract or by using county equipment and
85 employees. It shall be according to the original plan or any
86 amendments thereto which have been approved by the State Aid
87 Engineer. The board may use county equipment and employees if the
88 construction can be accomplished at a more reasonable cost than
89 can be achieved by contract.

90 **SECTION 3.** Section 65-9-17, Mississippi Code of 1972, is
91 amended as follows:

92 65-9-17. (1) When any county shall have met the
93 requirements of this chapter and shall have become eligible for
94 state aid, the State Aid Engineer, as soon as practicable, shall
95 notify such county in writing of such eligibility and that its

96 proportionate part of any state funds allocated to it for state
97 aid may be utilized for construction in the manner provided by
98 law, and such notice shall also be given in writing to the
99 Department of Finance and Administration and to the State
100 Treasurer.

101 (2) State aid funds shall be allocated to each county for
102 use on state aid system roads or roads on the Local System Road
103 Program in accordance with the provisions of Section 27-65-75.

104 (3) State aid funds may be credited to a county in advance
105 of the normal accrual to finance certain state aid improvements,
106 subject to the approval of the State Aid Engineer and subject
107 further to the following limitations:

108 (a) That the maximum amount of state aid funds that may
109 be advanced to any county shall not exceed ninety percent (90%) of
110 the state aid funds estimated to accrue to such county during the
111 remainder of the term of office of the board of supervisors of
112 such county.

113 (b) That no advance credit of funds will be made to any
114 county when the unobligated balance in the State Aid Road Fund is
115 less than One Million Dollars (\$1,000,000.00).

116 (c) That such advance crediting of funds be effected by
117 the State Aid Engineer at the time of the approval of the plans
118 and specifications for the proposed improvements.

119 It is the intent of this provision to utilize to the fullest
120 practicable extent the balance of state aid funds on hand at all
121 times.

122 (4) State aid funds shall be available to such county to the
123 following extent and in the following manner:

124 (a) On state aid projects, other than those on or off
125 the federal aid secondary system to be partially financed with
126 federal funds, state aid funds credited to such county in the
127 State Aid Road Fund shall be available to cover the cost of such
128 project. Upon the awarding of a contract for such state aid

129 project, the board of supervisors of any county will, by an
130 official order of the board, authorize the State Aid Engineer to
131 set up the project fund for such project from that county's state
132 aid fund in the State Treasury. The amount of the project fund
133 will cover the estimated cost of the project, including the
134 contractor's payments and any other costs authorized under this
135 chapter to be paid from state aid funds. Withdrawals from the
136 project fund will be made by requisitions prepared by the State
137 Aid Engineer, based on estimates and other supporting statements
138 and documents prepared or approved by the county engineer, such
139 requisitions, accompanied by such estimates and statements, to be
140 directed to the Department of Finance and Administration, which
141 will issue warrants in payment thereof. Requisitions may be drawn
142 to cover the final cost of the project accepted by the boards of
143 supervisors of the counties affected and the State Aid Engineer,
144 even though such cost exceeds the aforesaid estimated project
145 fund. Whenever, in the opinion of the State Aid Engineer, it
146 should appear that any such estimate or statement of account has
147 been improperly allowed or that any road construction project is
148 not proceeding in accordance with the plans, specifications and
149 standards set up therefor, then, in such event, due notice in
150 writing shall be given the board of supervisors of such county and
151 the contractor on such project, if any, stating the reason why
152 such account should not have been allowed or why such project is
153 not progressing satisfactorily; and if, within thirty (30) days
154 from the date of such notice in writing, such error or default is
155 not corrected to the satisfaction of the State Aid Engineer, all
156 state aid funds theretofore allocated to such eligible county
157 shall be immediately withdrawn and notice given the Department of
158 Finance and Administration and the State Treasurer that such
159 county has become ineligible therefor. Such county shall remain
160 ineligible until it again becomes eligible by satisfying the State
161 Aid Engineer as to its eligibility.

162 (b) On state aid projects on the federal aid secondary
163 system which are to be partially financed with federal funds,
164 state aid funds credited to such county in the State Aid Road Fund
165 shall be available to cover the sponsor's share of the cost of
166 such project. At the same time, the State Treasurer, on order
167 from the board of supervisors, shall transfer an amount up to one
168 hundred percent (100%) of such cost from the credit of such county
169 in the State Aid Road Fund to the credit of such county in the
170 State Highway Fund, earmarked for such project.

171 (c) State aid road funds credited to a county in the
172 State Aid Road Fund shall also be available to cover the sponsor's
173 cost of any other project of such county which is partially
174 financed with federal funds available through federal "safer
175 off-system" road funds and/or other federal road funds allocated
176 to the counties as provided for in accordance with Section
177 65-9-29(2). On order from the board of supervisors of such
178 county, the State Treasurer shall transfer an amount up to one
179 hundred percent (100%) of such cost from the credit of such county
180 in the State Aid Road Fund to the credit of such county in the
181 State Highway Fund, earmarked for such project.

182 (d) Up to one-third (1/3) of state aid road funds
183 credited to a county in the State Aid Road Fund may be available
184 to match federal bridge replacement monies or other federal funds,
185 or both, to construct, replace, inspect or post bridges and to
186 conduct pavement management surveys on county roads which are not
187 on the state aid system. To implement such projects, the State
188 Treasurer shall, as requested in an order from the board of
189 supervisors of the county, make transfers out of the credit of
190 such county in the State Aid Road Fund.

191 (e) Up to twenty-five percent (25%) of the state aid
192 road funds credited to a county in the State Aid Road Fund may be
193 available (a) for projects authorized under the Local System Road
194 Program, or (b) for the payment of the debt service on debt

195 incurred by a county for projects as authorized under the Local
196 System Road Program. Withdrawals from the fund for the Local
197 System Road Program will be made by requisitions prepared by the
198 State Aid Engineer, based on estimates and other supporting
199 statements and documents prepared or approved by the county
200 engineer; such requisitions, accompanied by such estimates and
201 statements, to be directed to the Department of Finance and
202 Administration, which will issue warrants in payment thereof.
203 Requisitions may be drawn (a) to cover the final cost of the local
204 system road project accepted by the boards of supervisors of the
205 counties affected and the State Aid Engineer even though such cost
206 exceeds the aforesaid estimated project fund, or (b) to cover the
207 debt service on any debt incurred by the county for local system
208 road projects approved by the State Aid Engineer. Whenever, in
209 the opinion of the State Aid Engineer, it should appear that any
210 such estimate or statement of account has been improperly allowed
211 or that any road construction project is not proceeding in
212 accordance with the plans, specifications and standards set up
213 therefor, then, in such event, due notice in writing shall be
214 given the board of supervisors of such county and the contractor
215 on such project, if any, stating the reason why such account
216 should not have been allowed or why such project is not
217 progressing satisfactorily; and if, within thirty (30) days from
218 the date of such notice in writing, such error or default is not
219 corrected to the satisfaction of the State Aid Engineer, all state
220 aid funds theretofore allocated to such eligible county shall be
221 immediately withdrawn and notice given the Department of Finance
222 and Administration and the State Treasurer that such county has
223 become ineligible therefor. Such county shall remain ineligible
224 until it again becomes eligible by satisfying the State Aid
225 Engineer as to its eligibility.

226 (5) The State Treasurer is hereby authorized to continue to
227 receive and deposit all funds from the federal government made

228 available by it, either by existing law or by any law which may be
229 passed hereafter, to the credit of the State Highway Fund, and the
230 Treasurer shall notify the commission of the amounts so received.

231 All accounts against the above-mentioned funds shall be
232 certified to by the Executive Director of the Mississippi
233 Department of Transportation, who shall request the Department of
234 Finance and Administration to issue its warrant on the State
235 Treasurer for the amount of the accounts; and the Treasurer shall
236 pay same if sufficient funds are available, all in the manner
237 prescribed herein or as may be required by law.

238 (6) The board of supervisors of each county is hereby
239 authorized and empowered to pay funds into the State Treasury in
240 the manner above set out, and to use and expend such funds for the
241 purposes set out in this chapter. For the purpose of providing
242 such funds, the board of supervisors is hereby authorized and
243 empowered to use and expend any county road and bridge funds,
244 including revenue received from any gasoline taxes paid to such
245 county, or any funds available in the General Fund, or to issue
246 road and bridge bonds of such county in any lawful amount in the
247 manner and method and subject to the restrictions, limitations and
248 conditions, and payable from the same sources of revenue, now
249 provided by law.

250 **SECTION 4.** This act shall take effect and be in force from
251 and after July 1, 2005.