

By: Representatives Dedeaux, Bailey, Clarke, Hudson, Moss, Robinson (63rd), Rogers (61st) To: Transportation

## HOUSE BILL NO. 1014

1 AN ACT TO AMEND SECTION 65-1-8, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT HIGHWAY PROJECTS OF THE MISSISSIPPI TRANSPORTATION  
3 COMMISSION FUNDED WITH ADVANCED FUNDS SHALL NOT HAVE A COST IN  
4 EXCESS OF 3.75 PERCENT OF THE ANNUAL EXPENDITURES OF THE  
5 MISSISSIPPI DEPARTMENT OF TRANSPORTATION FOR THE FISCAL YEAR  
6 IMMEDIATELY PRECEDING THE ONE IN WHICH THE ADVANCED FUNDING  
7 AGREEMENT WAS EXECUTED; TO REQUIRE THAT THE STATE BOND COMMISSION  
8 REVIEW AND APPROVE THOSE AGREEMENTS IN WHICH BOND PROCEEDS ARE  
9 USED TO PROVIDE THE ADVANCED FUNDING; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

97                   (iii) Rural water districts, rural water systems,  
98 nonprofit water associations and municipal public water systems in  
99 municipalities with a population of ten thousand (10,000) or less,  
100 according to the latest federal decennial census, shall not be  
101 required to bear the cost and expense of removal and relocation of  
102 water and sewer lines and facilities constructed or in place in  
103 the rights-of-way of state highways. The cost and expense of such  
104 removal and relocation, including any unpaid prior to July 1,  
105 2002, shall be paid by the Department of Transportation;

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

115                   (f) To regulate and abandon grade crossings on any road  
116 fixed as a part of the state highway system, and whenever the  
117 commission, in order to avoid a grade crossing with the railroad,  
118 locates or constructs the road on one (1) side of the railroad,  
119 the commission shall have the power to abandon and close such  
120 grade crossing, and whenever an underpass or overhead bridge is  
121 substituted for a grade crossing, the commission shall have power  
122 to abandon such grade crossing and any other crossing adjacent  
123 thereto. Included in the powers herein granted shall be the power  
124 to require the railroad at grade crossings, where any road of the  
125 state highway system crosses the same, to place signal posts with  
126 lights or other warning devices at such crossings at the expense  
127 of the railroad, and to regulate and abandon underpass or overhead  
128 bridges and, where abandoned because of the construction of a new  
129 underpass or overhead bridge, to close such old underpass or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

277 2. No other scheduled highway construction  
278 project established by statute or by the commission may be delayed  
279 by an advanced funding project authorized under this paragraph  
280 (z);

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

286 4. For projects approved from and after the  
287 effective date of this act, the total amount of all payments by  
288 the commission under this paragraph (z), including federal  
289 reimbursement of the federal share of repayments, shall not exceed  
290 three and seventy five one-hundredths percent (3.75%) of the  
291 department's annual expenditures for the fiscal year immediately  
292 preceding the fiscal year in which the agreement is approved. The  
293 term "annual expenditure" means the total amount of expenditures

294 for all department programs for the fiscal year. This limitation  
295 shall only apply when the commission considers whether it will  
296 enter into an agreement under this paragraph (z). The commission  
297 may approve such an agreement only if the repayments do not exceed  
298 this limitation.

299 (iii) In considering whether to enter into \* \* \*  
300 an agreement under this paragraph (z), the commission shall  
301 consider the availability of financial resources, the effect of  
302 such agreement on other ongoing highway construction, the urgency  
303 of the public's need for swift completion of the project and any  
304 other relevant factors.

305 (iv) \* \* \* An agreement entered into under this  
306 paragraph (z) shall be executed only upon a finding by the  
307 commission, spread upon its minutes, that the acceleration of the  
308 scheduled project is both feasible and beneficial. The commission  
309 shall also spread upon its minutes its findings with regard to the  
310 factors required to be considered pursuant to item (iii) of this  
311 paragraph (z).

312 (v) The Mississippi Transportation Commission  
313 shall submit to the State Bond Commission for its approval any  
314 agreement authorized under this paragraph (z) in which the  
315 proceeds of bonds or notes issued are used to advance the costs of  
316 a highway construction project to the commission. The State Bond  
317 Commission shall approve the agreement only if it determines that  
318 the financing aspects of the project are fiscally sound and that  
319 the payments do not exceed the limitations in subparagraph (ii)4  
320 of this paragraph (z).

321 (aa) The Mississippi Transportation Commission, in its  
322 discretion, may purchase employment practices liability insurance,  
323 and may purchase an excess policy to cover catastrophic losses  
324 incurred under the commission's self-insured workers' compensation  
325 program authorized under Section 71-3-5. Such policies shall be  
326 written by the agent or agents of a company or companies

327 authorized to do business in the State of Mississippi. The  
328 deductibles shall be in an amount deemed reasonable and prudent by  
329 the commission, and the premiums thereon shall be paid from the  
330 State Highway Fund. Purchase of insurance under this paragraph  
331 shall not serve as an actual or implied waiver of sovereign  
332 immunity or of any protection afforded the commission under the  
333 Mississippi Tort Claims Act;

334 (bb) The Mississippi Transportation Commission is  
335 further authorized, in its discretion, to expend funds for the  
336 purchase of promotional materials for safety purposes, highway  
337 beautification purposes and recruitment purposes;

338 (cc) To lease antenna space on communication towers  
339 which it owns.

340 **SECTION 2.** This act shall take effect and be in force from  
341 and after July 1, 2006.