

By: Representative Davis

To: Transportation

## HOUSE BILL NO. 1442

1 AN ACT TO AMEND SECTION 65-1-175, MISSISSIPPI CODE OF 1972,  
2 TO AUTHORIZE THE MISSISSIPPI DEPARTMENT OF TRANSPORTATION TO  
3 ABOLISH ANY PUBLIC ROADWAY/RAILROAD CROSSING WHEN THE DEPARTMENT  
4 DETERMINES THAT THE PUBLIC NECESSITY SERVED BY THE CROSSING DOES  
5 NOT JUSTIFY FURTHER RETENTION; TO PROVIDE THAT A PUBLIC HEARING BY  
6 THE DEPARTMENT TO ABOLISH A CROSSING SHALL NOT BE REQUIRED WHEN  
7 THE PUBLIC ROADWAY AUTHORITY IN INTEREST ABANDONS THE ROADWAY; TO  
8 RESTRICT THE AMOUNT OF COSTS THAT MAY BE ASSESSED AGAINST A  
9 RAILROAD OR ROADWAY AUTHORITY FOR CLOSING A GRADE CROSSING AND  
10 PERFORMING CERTAIN OTHER ROAD AND GRADE CROSSING IMPROVEMENTS; AND  
11 FOR RELATED PURPOSES.

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

13 **SECTION 1.** Section 65-1-175, Mississippi Code of 1972, is  
14 amended as follows:

15 65-1-175. The jurisdiction of the Mississippi Department of  
16 Transportation shall be exclusive with respect to public  
17 roadway/railroad crossings either at grade or otherwise except to  
18 the extent that its jurisdiction is preempted by valid federal  
19 statute, regulation or order.

20 The Mississippi Department of Transportation shall have  
21 power, upon its own motion or upon complaint filed, after having  
22 made proper investigation, and after notice and hearing, if  
23 requested, to abolish any public roadway/railroad crossing  
24 heretofore or hereafter established, to vacate and close that part  
25 of the roadway on such crossing abolished, and to erect barricades  
26 across the roadway in such a manner as to prevent the use of such  
27 crossing as a roadway, when, in the opinion of the department, the  
28 public necessity served by the crossing in question is not such as  
29 to justify the further retention thereof. In any event, if a  
30 roadway/railway crossing is the subject of closure proceedings,  
31 both the local governmental entity and the rail carrier shall be

32 given formal written notice by the department before any hearing  
33 is conducted by the department. However, a public hearing by the  
34 department to abolish a crossing shall not be required when the  
35 public roadway authority in interest abandons the roadway as  
36 provided for in Section 65-7-121. In such instance, the rail  
37 carrier, following notification to the department and roadway  
38 authority, shall remove any grade crossing warning devices and the  
39 grade crossing surface.

40 The Mississippi Department of Transportation shall have  
41 power, upon its own motion, or upon complaint, and after having  
42 made proper investigation and after notice and hearing, if  
43 requested, to require the installation of adequate and appropriate  
44 luminous reflective warning signs, luminous flashing signals,  
45 crossing gates illuminated at night, stop signs, yield signs or  
46 other warning devices in order to promote the health and safety of  
47 the public. Luminous flashing signals or crossing gate devices  
48 heretofore installed at grade crossings and those installations  
49 hereafter approved by the department shall be deemed adequate and  
50 appropriate. The department shall have authority to determine the  
51 number, type and location of such signs, signals, gates or other  
52 protective devices which shall conform as near as may be with  
53 generally recognized national standards, and the department shall  
54 have authority to prescribe the division of the cost of the  
55 installation and subsequent maintenance of such signs, signals,  
56 gates or other warning devices between the rail carrier or  
57 carriers, the public roadway authority in interest and the  
58 Mississippi Department of Transportation. In no event shall any  
59 costs assessed against either the public roadway authority in  
60 interest or the rail carrier exceed ten percent (10%) of the costs  
61 of the materials and installation.

62 Nothing in this section shall be construed as amending,  
63 repealing or modifying any duty or responsibility that railroads  
64 had, if any, immediately before the effective date of this act

65 with regard to any applicable state or federal laws, statutes,  
66 regulations or orders pertaining to the maintenance of signals,  
67 signs and warning devices at roadway/railroad crossings.

68 In those instances where the department orders a grade  
69 crossing closed and another crossing improved with automatic  
70 warning devices and orders the installation of a connecting road  
71 for the traveling public, the cost of such connecting road  
72 assessed against the railroad and/or the roadway authority shall  
73 not exceed ten percent (10%) of the cost of installation of the  
74 connecting road and no more than five percent (5%) may be assessed  
75 against either of these parties, unless the parties agree in  
76 writing to pay a higher percentage.

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