

By: Senator(s) Huggins

To: Highways and
Transportation

SENATE BILL NO. 2580

1 AN ACT TO AMEND SECTION 65-1-8, MISSISSIPPI CODE OF 1972, TO
2 REQUIRE THAT HIGHWAY PROJECTS FUNDED WITH ADVANCED FUNDS HAVE A
3 COST NOT IN EXCESS OF A CERTAIN PERCENTAGE OF THE ANNUAL
4 EXPENDITURES OF THE MISSISSIPPI DEPARTMENT OF TRANSPORTATION; TO
5 REQUIRE THAT THE STATE BOND COMMISSION REVIEW SUCH AGREEMENTS; AND
6 FOR RELATED PURPOSES.

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

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

10 65-1-8. (1) The Mississippi Transportation Commission shall
11 have the following general powers, duties and responsibilities:

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

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

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

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

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

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

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

30 Mississippi Transportation Commission shall have the following
31 specific powers:

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

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

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

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

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

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

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

94 (iii) Rural water districts, rural water systems,
95 nonprofit water associations and municipal public water systems in

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

195 to be paid from state highway funds other than earmarked
196 construction funds;

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

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

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

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

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

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

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

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

255 (y) To lease antenna space on communication towers
256 which it owns.

257 (3) The Mississippi Transportation Commission may delegate
258 the authority to enter into a supplemental agreement to a contract
259 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; provided, 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) For projects approved after June 30, 2006,
287 the total amount of all payments by the commission under this
288 subsection, including federal reimbursement of the federal share
289 of repayments, shall not exceed three and seventy-five
290 one-hundredths percent (3.75%) of the department's annual
291 expenditures for the fiscal year immediately preceding the fiscal
292 year in which the agreement is approved. The term "annual

293 expenditures" means the total amount of expenditures for all
294 department programs for the fiscal year. This limitation shall
295 only apply when the commission considers whether it will enter
296 into an agreement pursuant to this subsection. The commission may
297 approve such an agreement only if the repayments do not exceed
298 this limitation.

299 (c) In considering whether to enter into * * * an
300 agreement pursuant to this subsection, 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 (d) * * * An agreement entered into pursuant to this
306 subsection 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 * * * paragraph (c)
311 of this subsection.

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

321 (5) 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 (6) The Mississippi Transportation Commission is further
335 authorized, in its discretion, to expend funds for the purchase of
336 promotional materials for safety purposes, highway beautification
337 purposes and recruitment purposes.

338 * * *

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