

By: Representative Baker (74th)

To: Transportation

## HOUSE BILL NO. 744

1 AN ACT TO AMEND SECTION 65-1-3, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT THE MEMBERS OF THE MISSISSIPPI TRANSPORTATION  
3 COMMISSION ELECTED IN THE NOVEMBER 2007 GENERAL ELECTION SHALL  
4 SERVE A TERM ENDING ON JULY 1, 2009; TO PROVIDE THAT FROM AND  
5 AFTER JULY 1, 2009, THE MISSISSIPPI TRANSPORTATION COMMISSION  
6 SHALL CONSIST OF FIVE MEMBERS APPOINTED BY THE GOVERNOR, WITH THE  
7 ADVICE AND CONSENT OF THE SENATE, WITH ONE MEMBER APPOINTED FROM  
8 EACH OF THE FOUR CONGRESSIONAL DISTRICTS AND ONE MEMBER APPOINTED  
9 FROM THE STATE AT LARGE; TO PRESCRIBE THE TERMS OF OFFICE FOR SUCH  
10 MEMBERS; TO AMEND SECTION 65-1-5, MISSISSIPPI CODE OF 1972, TO  
11 PROVIDE THAT THE TRANSPORTATION COMMISSION SHALL APPOINT FROM  
12 AMONG ITS MEMBERSHIP A VICE CHAIRMAN AS WELL AS A CHAIRMAN OF THE  
13 COMMISSION; TO AMEND SECTION 65-1-9, MISSISSIPPI CODE OF 1972, TO  
14 REVISE THE MANNER AND PROCEDURE FOR THE APPOINTMENT AND REMOVAL OF  
15 THE EXECUTIVE DIRECTOR OF THE COMMISSION; TO AMEND SECTION  
16 23-15-193, MISSISSIPPI CODE OF 1972, IN CONFORMITY WITH THE  
17 PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

19 **SECTION 1.** Section 65-1-3, Mississippi Code of 1972, is  
20 amended as follows:

21 65-1-3. (1) There shall be a Mississippi Transportation  
22 Commission which, until the commission is reconstituted as  
23 provided under subsection (2) of this section, shall consist of  
24 three (3) members, one (1) from each of the three (3) Supreme  
25 Court districts of the state. Only qualified electors who are  
26 citizens of the Supreme Court district in which he or she offers  
27 for election shall be eligible for such office.

28 On Tuesday after the first Monday in November of the year  
29 2007, transportation commissioners shall be elected at the same  
30 time and in the same manner as the Governor is chosen; and the  
31 laws governing primary elections and the holding of general  
32 elections in this state shall apply to and govern the nomination  
33 and election of such commissioners. The transportation  
34 commissioners so elected shall enter upon the discharge of the

35 duties of their respective offices on the first Monday of January  
36 in the year 2008, and \* \* \* shall serve \* \* \* until their  
37 successors are appointed and qualified as provided under  
38 subsection (2) of this section.

39 (2) From and after July 1, 2009, the Mississippi  
40 Transportation Commission shall consist of five (5) members  
41 appointed by the Governor with the advice and consent of the  
42 Senate, one from each of the four (4) congressional districts of  
43 the state, as constituted on January 1, 2009, and one (1) from the  
44 state at large. Only qualified electors who are citizens of the  
45 state shall be eligible for such office. The initial appointees  
46 shall serve for terms of two (2), four (4), six (6), eight (8) and  
47 ten (10) years respectively, the terms of the persons so appointed  
48 to be determined by lot. Upon expiration of office of an initial  
49 appointee, his successor shall be appointed for a term of ten (10)  
50 years, shall be appointed in the same manner and shall have the  
51 same qualifications as his predecessor in office.

52 (3) If any one or more of the transportation commissioners  
53 elected or appointed under the provisions of this chapter shall  
54 die, resign or be removed from office, the Governor shall fill the  
55 vacancy by appointment for the unexpired term \* \* \*.

56 Each transportation commissioner, before entering upon the  
57 discharge of the duties of his office, shall take and subscribe  
58 the oath of office required of other state officials and shall  
59 execute bond in the sum of Fifty Thousand Dollars (\$50,000.00),  
60 with some surety company authorized to do business in this state  
61 as surety, conditioned for the faithful performance of the duties  
62 of his office and for the faithful and true accounting of all  
63 funds or monies or property coming into his hands by virtue of his  
64 office, and conditioned further that all such funds, monies and  
65 property will be expended and used by him only for purposes  
66 authorized by law, said bond to be approved by the Governor or  
67 Attorney General and to be filed in the Office of the Secretary of

68 State. The premium on such bonds shall be paid out of the funds  
69 of the Mississippi Department of Transportation.

70 (5) From and after July 1, 1992, the State Highway  
71 Commission shall be the Mississippi Transportation Commission and  
72 the members thereof shall be the Mississippi Transportation  
73 Commissioners.

74 **SECTION 2.** Section 65-1-5, Mississippi Code of 1972, is  
75 amended as follows:

76 65-1-5. When the transportation commissioners enter upon the  
77 duties of their office, the Transportation Commission shall meet  
78 and organize by the election of one (1) of its members to serve as  
79 chairman and another as vice chairman of the commission for the  
80 terms for which such commissioners shall have been elected. The  
81 vice chairman shall have all the powers of the chairman in the  
82 event of the chairman's absence or disability or of a vacancy in  
83 the office. The commission, a majority of which shall constitute  
84 a quorum, shall meet in regular session on the second Tuesday of  
85 each month at the office of the commission in Jackson,  
86 Mississippi; however, the commission may meet in regular session  
87 not more than three (3) times each year at such other location as  
88 may be set by the commission. At such regular sessions the  
89 commission may hear, continue and determine any and all matters  
90 coming before it. The commission may hold special sessions at the  
91 call of the executive director or the chairman at such times and  
92 places in this state as either of them may deem necessary. At  
93 such special sessions it may hear, continue, consider and  
94 determine any and all matters coming before it, provided that at  
95 least five (5) days' notice of such meetings shall be given to all  
96 the members of the commission beforehand. A special session may  
97 be called at any time without the foregoing notice, or any notice,  
98 if by and with the unanimous consent of all the members of the  
99 commission, but such unanimous consent shall be spread at large on  
100 the minutes of the commission. If any session is held at a

101 location other than at the commission's office in Jackson,  
102 Mississippi, the commission shall make provisions to allow public  
103 participation in the meeting by appearing at the Jackson office.

104 The Mississippi Transportation Commission shall act as a  
105 legal entity, and shall only speak through its minutes, and in all  
106 matters shall act as a unit. Any action on the part of any member  
107 of the commission separately shall not bind the commission as a  
108 unit, but such individual member only shall be liable personally  
109 on his official bond.

110 The Mississippi Transportation Commission shall be a body  
111 corporate and as such may sue and be sued, plead and be impleaded,  
112 in any court of justice having jurisdiction of the subject matter  
113 of any such suit. In any suit against the Mississippi  
114 Transportation Commission service of process shall be had by  
115 serving the secretary of the commission with such process; and a  
116 copy of the declaration, petition or bill of complaint, or other  
117 initial pleading shall be handed the secretary along with the  
118 process.

119 **SECTION 3.** Section 65-1-9, Mississippi Code of 1972, is  
120 amended as follows:

121 65-1-9. The commission shall appoint an Executive Director  
122 of the Mississippi Department of Transportation \* \* \*. The person  
123 serving as executive director of the \* \* \* department on June 30,  
124 2009, shall \* \* \* be eligible for reappointment to the  
125 position \* \* \*. The executive director may be removed by a  
126 majority vote of the commission \* \* \*. The commission shall fix  
127 the compensation of the executive director, subject to approval by  
128 the State Personnel Board. The executive director shall be  
129 eligible for reappointment. The executive director shall have the  
130 following qualifications:

131 (a) Possess a wide knowledge of the transportation  
132 system and needs of Mississippi;

133 (b) Possess a wide knowledge of the principles of  
134 transportation organization and administration; and

135 (c) Possess selected training or expertise in the field  
136 of transportation.

137 No person who is a member of the Mississippi Transportation  
138 Commission, or who has been a member of the transportation  
139 commission or of its predecessor, the State Highway Commission,  
140 within two (2) years next preceding his appointment, shall be  
141 eligible to be chosen as executive director of the department.  
142 The executive director shall be the executive officer of the  
143 commission and shall be subject to its orders and directions. The  
144 executive director shall give his entire time to the duties of his  
145 office. Before entering upon the duties of his office, the  
146 executive director shall give bond to the State of Mississippi in  
147 the sum of Fifty Thousand Dollars (\$50,000.00), conditioned upon  
148 the faithful discharge and performance of his official duty. The  
149 principal and surety on such bond shall be liable thereunder to  
150 the state for double the amount of value of any money or property  
151 which the state may lose, if any, by reason of any wrongful or  
152 criminal act of the executive director. Such bond, when approved  
153 by the commission, shall be filed with the Secretary of State, and  
154 the premium thereon shall be paid from any funds available to the  
155 commission.

156 **SECTION 4.** Section 23-15-193, Mississippi Code of 1972, is  
157 amended as follows:

158 23-15-193. (1) At the election in 1995, and every four (4)  
159 years thereafter, there shall be elected a Governor, Lieutenant  
160 Governor, Secretary of State, Auditor of Public Accounts, State  
161 Treasurer, Attorney General, three (3) public service  
162 commissioners, \* \* \* Commissioner of Insurance, Commissioner of  
163 Agriculture and Commerce, Senators and members of the House of  
164 Representatives in the Legislature, district attorneys for the  
165 several districts, clerks of the circuit and chancery courts of

166 the several counties, as well as sheriffs, coroners, assessors,  
167 surveyors and members of the boards of supervisors, justice court  
168 judges and constables, and all other officers to be elected by the  
169 people at the general state election. All such officers shall  
170 hold their offices for a term of four (4) years, and until their  
171 successors are elected and qualified. \* \* \*

172 (2) At the election in 2007, there shall be elected three  
173 (3) Mississippi Transportation Commissioners who shall hold their  
174 office until their successors are appointed and qualified as  
175 provided under Section 65-1-3(2).

176 (3) The state officers described in subsections (2) and (3)  
177 of this section shall be elected in the manner prescribed in  
178 Section 140 of the Constitution.

179 **SECTION 5.** The Attorney General of the State of Mississippi  
180 shall submit this act, immediately upon approval by the Governor,  
181 or upon approval by the Legislature subsequent to a veto, to the  
182 Attorney General of the United States or to the United States  
183 District Court for the District of Columbia in accordance with the  
184 provisions of the Voting Rights Act of 1965, as amended and  
185 extended.

186 **SECTION 6.** This act shall take effect and be in force from  
187 and after the date it is effectuated under Section 5 of the Voting  
188 Rights Act of 1965, as amended and extended.