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To: Transportation

HOUSE BILL NO. 1245
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 65-1-75, MISSISSIPPI CODE OF 1972, TO
 2 REQUIRE THE MISSISSIPPI DEPARTMENT OF TRANSPORTATION TO MAINTAIN
 3 GRASS MOWING OF RIGHTS-OF-WAY FOR ANY STATE HIGHWAYS LOCATED
 4 WITHIN THE MUNICIPAL LIMITS OF ANY MUNICIPALITY IN THE STATE WITH
 5 A POPULATION OF TEN THOUSAND (10,000) OR LESS; AND FOR RELATED
 6 PURPOSES.

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

8 **SECTION 1.** Section 65-1-75, Mississippi Code of 1972, is
 9 amended as follows:

10 65-1-75. (1) The Mississippi Transportation Commission is
 11 authorized and empowered to have the Transportation Department
 12 locate, construct, reconstruct and maintain any designated state
 13 highway under its jurisdiction to, through, across or around any
 14 municipality in the state, regardless of the width of the street
 15 between curbs; and in so locating it is fully empowered to follow
 16 the route of the existing street or to depart therefrom, as in its
 17 discretion it deems advisable, and to obtain and pay for the
 18 necessary rights-of-way, as provided in Section 65-1-47. The
 19 municipality in which such construction is to be undertaken is
 20 likewise authorized to acquire rights-of-way on any such streets



21 or on any newly located routes, either by purchase, gift or
22 condemnation. Such rights-of-way may be acquired by either the
23 municipality or the Transportation Department, subject to the
24 approval of the commission, and the cost thereof may be borne by
25 either or both as may be mutually agreed upon. In any event such
26 municipality may be required to save the commission and department
27 harmless from any claims for damages arising from the construction
28 of the highway through such municipality, including claims for
29 rights-of-way, change of grade line, interference with public
30 structures, and any and all damages so arising. Municipalities
31 may secure additional improvements by payment of the additional
32 cost of same. The commission may require such municipality to
33 cause to be laid all water, sewer, gas or other pipelines or
34 conduits, together with all necessary house or lot connections or
35 services, to the curb line of such road or street to be
36 constructed, and the commission is authorized to refuse to have
37 the department lay such pipelines or conduits beneath such roads
38 or streets until the municipality has laid same or entered into an
39 agreement to reimburse the commission or department for the
40 expense thereby incurred.

41 (2) All construction of state highways in or through
42 municipalities, where done at the cost and expense of the state,
43 whether heretofore or hereafter, shall be maintained in the same
44 manner and to the same extent as is construction on state highways
45 outside the limits of municipalities to the end that investment of



46 the state in such highway so constructed may be preserved and
47 maintained; and all reasonable rules and regulations with
48 reference to the preservation and maintenance of such highways
49 constructed at state expense, whether within or without municipal
50 limits, may be promulgated by the commission, except that it shall
51 have no power to promulgate police regulations contrary to
52 existing law. On any municipal streets or parts or sections
53 thereof taken over for regular maintenance and maintained by the
54 department as a part of the state highway system, the municipality
55 shall not be liable for negligence occasioned by the maintenance
56 or repair of such streets thus apportioned to and of such width as
57 is maintained by the department. The municipality shall have full
58 control and responsibility beyond the curb lines of any designated
59 highway or street, whether heretofore or hereafter so designated,
60 (except the interstate system) located within its present or
61 future expanded municipal corporate limits, regardless of the
62 ownership of the right-of-way, including, but not limited to, the
63 construction and maintenance of sidewalks, grass mowing and
64 drainage systems; however, the department may utilize the
65 right-of-way purchased by the commission without any additional
66 cost or permission.

67 The municipality shall not allow any encroachments, signs or
68 billboards to be erected or to remain on state-owned rights-of-way
69 on any designated highway within its corporate limits without the
70 consent of the commission. The municipality, at its own expense,



71 shall provide street illumination and shall clean all streets,
72 including storm sewer inlets and catch basins. The commission may
73 enter into an agreement with the municipality or with a private
74 entity to sweep and clean the designated highways within or
75 without the corporate limits. The commission may, at state
76 expense, provide illumination and may clean all interstate
77 highways within the corporate limits of any municipality. The
78 right of the municipality to grant franchises over, beneath and
79 upon such streets is specifically retained, but the municipality
80 shall require every grantee of a franchise to restore, repair and
81 replace to its original condition any portion of any such street
82 damaged or injured by it; however, permission to open the surface
83 of any municipal street maintained by the department must be
84 obtained from both the commission and the municipality concerned
85 before any such opening is made. Each municipality shall retain
86 full police power over its streets, particularly as to regulating
87 and enforcing traffic and parking restrictions on such streets,
88 but any traffic control and parking regulations repugnant to state
89 law shall be null and void. The commission shall have the
90 department erect, control and maintain all highway route markers
91 and directional signs on such streets at state expense. The
92 commission, at state expense, shall have the department install,
93 operate, maintain, control, and have full jurisdiction over, all
94 traffic control devices, including, but not limited to, signals,
95 signs, striping and lane markings on state highway streets in



96 municipalities having a population of twenty thousand (20,000) or
97 less according to the current United States census; but
98 municipalities over twenty thousand (20,000) population according
99 to such census shall install, operate, maintain and control such
100 devices at their own expense, subject to approval of the executive
101 director regarding operations, method of installation and type
102 only. Municipalities having a population of five thousand (5,000)
103 or more but less than twenty thousand (20,000) according to the
104 most recent federal census shall only be responsible for
105 electrical operating costs; and all other costs for the
106 installation, operation and maintenance of traffic control
107 devices, including the changing of signal bulbs in traffic signal
108 lights, shall be the responsibility of the Transportation
109 Department. The commission may purchase at state expense and
110 install traffic control devices in municipalities over twenty
111 thousand (20,000) population and donate them to the municipalities
112 for operation and maintenance whenever it appears to the
113 commission that, in the interest of safety or convenience of the
114 motoring public, any of the devices should be upgraded, replaced
115 or removed. Any revenue from parking meters on any such streets
116 shall be controlled by and belong to the municipality.

117 (3) The maintenance of all streets within the limits of any
118 municipality in this state, regardless of size, which are
119 presently being regularly maintained, in whole or in part, by the
120 department at state expense as a part or parts of any designated



121 state highway shall be continued. Whenever any state highway runs
122 into or through the corporate limits of any municipality, the
123 municipal street or the street utilized and marked as a part of
124 any such state highway may be a part of the state highway system
125 and may be maintained by the department; however, such route
126 through any municipality shall be selected by the commission by
127 orders spread on its minutes describing all such routes, and such
128 route or routes may be changed, relocated or abandoned by the
129 commission from time to time, all under the provisions, terms and
130 conditions herein provided, but the commission shall have the
131 department maintain only one (1) route of any highway through a
132 municipality. Upon relocation of such state highway or
133 abandonment thereof, the municipal street formerly used as a state
134 highway shall thereby return to the jurisdiction of, and
135 maintenance by, the municipality.

136 (4) Notwithstanding any other provision of this section to
137 the contrary, beginning on July 1, 2021, the department shall
138 maintain grass mowing of rights-of-way for any state highways
139 located within the municipal limits of any municipality in the
140 state with a population of ten thousand (10,000) or less according
141 to the latest federal decennial census that desires that the
142 department perform grass mowing services, provided that it is in
143 accordance with the department's annual mowing schedule and that
144 the department shall not be required to maintain grass mowing for
145 areas that are subject to a beautification permit or agreement.



146 **SECTION 2.** This act shall take effect and be in force from
147 and after July 1, 2021.

