

By: Senator(s) Harkins

To: Highways and
Transportation; Finance

SENATE BILL NO. 2507
(As Passed the Senate)

1 AN ACT TO AMEND SECTION 65-1-8, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT REPAYMENTS TO A PUBLIC ENTITY THAT ADVANCES FUNDS TO
3 THE MISSISSIPPI TRANSPORTATION COMMISSION MAY NOT INCLUDE INTEREST
4 OR OTHER FEES, AND THE TOTAL AMOUNT REPAID SHALL NOT EXCEED THE
5 TOTAL AMOUNT OF FUNDS ADVANCED TO THE COMMISSION; TO SPECIFY THAT
6 THIS PROVISION DOES NOT INVALIDATE ANY EXISTING AGREEMENTS
7 AUTHORIZED BEFORE THE EFFECTIVE DATE OF THIS ACT; TO PROVIDE THAT
8 THE COMMISSION SHALL RETAIN THE ABILITY TO SERVICE, REFINANCE OR
9 RESTRUCTURE ANY INDEBTEDNESS INCURRED THROUGH ANY SUCH EXISTING
10 AGREEMENTS; AND FOR RELATED PURPOSES.

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

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

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

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

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

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



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

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

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

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

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



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

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

69 (d) To give suitable numbers to highways and to change
70 the number of any highway that shall become a part of the state
71 highway system. However, nothing herein shall authorize the



72 number of any highway to be changed so as to conflict with any
73 designation thereof as a U.S. numbered highway. Where, by a
74 specific act of the Legislature, the commission has been directed
75 to give a certain number to a highway, the commission shall not
76 have the authority to change such number;

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

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



96 rules or regulations or noncompliance with such orders shall
97 constitute a misdemeanor;

98 (iii) Rural water districts, rural water systems,
99 nonprofit water associations and municipal public water systems in
100 municipalities with a population of ten thousand (10,000) or less,
101 according to the latest federal decennial census, shall not be
102 required to bear the cost and expense of removal and relocation of
103 water and sewer lines and facilities constructed or in place in
104 the rights-of-way of state highways. The cost and expense of such
105 removal and relocation, including any unpaid prior to July 1,
106 2002, shall be paid by the Department of Transportation;

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

116 (f) To regulate and abandon grade crossings on any road
117 fixed as a part of the state highway system, and whenever the
118 commission, in order to avoid a grade crossing with the railroad,
119 locates or constructs said road on one side of the railroad, the
120 commission shall have the power to abandon and close such grade



121 crossing, and whenever an underpass or overhead bridge is
122 substituted for a grade crossing, the commission shall have power
123 to abandon such grade crossing and any other crossing adjacent
124 thereto. Included in the powers herein granted shall be the power
125 to require the railroad at grade crossings, where any road of the
126 state highway system crosses the same, to place signal posts with
127 lights or other warning devices at such crossings at the expense
128 of the railroad, and to regulate and abandon underpass or overhead
129 bridges and, where abandoned because of the construction of a new
130 underpass or overhead bridge, to close such old underpass or
131 overhead bridge, or, in its discretion, to return the same to the
132 jurisdiction of the county board of supervisors;

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

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

142 (i) To establish, and have the Transportation
143 Department maintain and operate, and to cooperate with the state
144 educational institutions in establishing, enlarging, maintaining



145 and operating a laboratory or laboratories for testing materials
146 and for other proper highway purposes;

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

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

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

155 (m) To provide for the purchase of necessary equipment
156 and vehicles and to provide for the repair and housing of same, to
157 acquire by gift, purchase, condemnation or otherwise, land or
158 lands and buildings in fee simple, and to authorize the
159 Transportation Department to construct, lease or otherwise provide
160 necessary and proper permanent district offices for the
161 construction and maintenance divisions of the department, and for
162 the repair and housing of the equipment and vehicles of the
163 department; however, in each Supreme Court district only two (2)
164 permanent district offices shall be set up, but a permanent status
165 shall not be given to any such offices until so provided by act of
166 the Legislature and in the meantime, all shops of the department
167 shall be retained at their present location. As many local or
168 subdistrict offices, shops or barns may be provided as is



169 essential and proper to economical maintenance of the state
170 highway system;

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

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

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



193 (q) To cooperate with the Federal Highway
194 Administration in the matter of location, construction and
195 maintenance of the Great River Road, to expend such funds paid to
196 the commission by the Federal Highway Administration or other
197 federal agency, and to authorize the Transportation Department to
198 erect suitable signs marking this highway, the cost of such signs
199 to be paid from state highway funds other than earmarked
200 construction funds;

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

212 (s) To expend funds in cooperation with the Division of
213 Plant Industry, Mississippi Department of Agriculture and
214 Commerce, the United States government or any department or agency
215 thereof, or with any department or agency of this state, to
216 control, suppress or eradicate serious insect pests, rodents,



217 plant parasites and plant diseases on the state highway
218 rights-of-way;

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

226 (u) To request and to accept the use of persons
227 convicted of an offense, whether a felony or a misdemeanor, for
228 work on any road construction, repair or other project of the
229 Transportation Department. The commission is also authorized to
230 request and to accept the use of persons who have not been
231 convicted of an offense but who are required to fulfill certain
232 court-imposed conditions pursuant to Section 41-29-150(d)(1) or
233 99-15-26, Mississippi Code of 1972, or the Pretrial Intervention
234 Act, being Sections 99-15-101 through 99-15-127, Mississippi Code
235 of 1972. The commission is authorized to enter into any
236 agreements with the Department of Corrections, the State Parole
237 Board, any criminal court of this state, and any other proper
238 official regarding the working, guarding, safekeeping, clothing
239 and subsistence of such persons performing work for the
240 Transportation Department. Such persons shall not be deemed
241 agents, employees or involuntary servants of the Transportation



242 Department while performing such work or while going to and from
243 work or other specified areas;

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

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

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

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

264 (z) (i) The Mississippi Transportation Commission, in
265 its discretion, may enter into agreements with any county,
266 municipality, county transportation commission, business,



267 corporation, partnership, association, individual or other legal
268 entity, for the purpose of accelerating the completion date of
269 scheduled highway construction projects.

270 (ii) Such an agreement may permit the cost of a
271 highway construction project to be advanced to the commission by a
272 county, municipality, county transportation commission, business,
273 corporation, partnership, association, individual or other legal
274 entity, and repaid to such entity by the commission when highway
275 construction funds become available; provided, however, that
276 repayment of funds advanced to the Mississippi Transportation
277 Commission shall be made no sooner than the commission's
278 identified projected revenue schedule for funding of that
279 particular construction project, and no other scheduled highway
280 construction project established by statute or by the commission
281 may be delayed by an advanced funding project authorized under
282 this paragraph (z). Repayments to a public or private entity that
283 advances funds to the Mississippi Transportation Commission under
284 this paragraph (z) may not include interest or other fees or
285 charges, and the total amount repaid shall not exceed the total
286 amount of funds advanced to the commission by the entity; however,
287 the inclusion of public entities in this provision does not
288 invalidate any existing agreements authorized under this paragraph
289 (z) before the effective date of this act. The commission shall
290 retain the ability to service, refinance or restructure any
291 indebtedness incurred through any such existing agreements.



292 (iii) In considering whether to enter into such an
293 agreement, the commission shall consider the availability of
294 financial resources, the effect of such agreement on other ongoing
295 highway construction, the urgency of the public's need for swift
296 completion of the project and any other relevant factors.

297 (iv) Such an agreement shall be executed only upon
298 a finding by the commission, spread upon its minutes, that the
299 acceleration of the scheduled project is both feasible and
300 beneficial. The commission shall also spread upon its minutes its
301 findings with regard to the factors required to be considered
302 pursuant to subparagraph (iii) of this paragraph (z);

303 (aa) The Mississippi Transportation Commission, in its
304 discretion, may purchase employment practices liability insurance,
305 and may purchase an excess policy to cover catastrophic losses
306 incurred under the commission's self-insured workers' compensation
307 program authorized under Section 71-3-5. Such policies shall be
308 written by the agent or agents of a company or companies
309 authorized to do business in the State of Mississippi. The
310 deductibles shall be in an amount deemed reasonable and prudent by
311 the commission, and the premiums thereon shall be paid from the
312 State Highway Fund. Purchase of insurance under this paragraph
313 shall not serve as an actual or implied waiver of sovereign
314 immunity or of any protection afforded the commission under the
315 Mississippi Tort Claims Act;



316 (bb) The Mississippi Transportation Commission is
317 further authorized, in its discretion, to expend funds for the
318 purchase of promotional materials for safety purposes, highway
319 beautification purposes and recruitment purposes;

320 (cc) To lease antenna space on communication towers
321 which it owns;

322 (dd) To receive funds from the Southeastern Association
323 of Transportation Officials and from other nonstate sources and
324 expend those funds for educational scholarships in transportation
325 related fields of study. The commission may adopt rules or
326 regulations as necessary for the implementation of the program. A
327 strict accounting shall be made of all funds deposited with the
328 commission and all funds dispersed.

329 **SECTION 2.** This act shall take effect and be in force from
330 and after its passage.

