

By: Representative Massengill

To: Transportation

HOUSE BILL NO. 638

1 AN ACT TO AMEND SECTION 65-1-8, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE THE MISSISSIPPI TRANSPORTATION COMMISSION TO DELEGATE
3 ITS AUTHORITY TO ENTER INTO SUPPLEMENTAL AGREEMENTS TO CERTAIN
4 CONTRACTS PREVIOUSLY APPROVED BY THE COMMISSION FOR EXPENDITURES
5 NOT TO EXCEED \$250,000.00; AND FOR RELATED PURPOSES.

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

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

9 65-1-8. (1) The Mississippi Transportation Commission shall
10 have the following general powers, duties and responsibilities:

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

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

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



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

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

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

27 (2) In addition to the general powers, duties and
28 responsibilities listed in subsection (1) of this section, the
29 Mississippi Transportation Commission shall have the following
30 specific powers:

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



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

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

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



67 number of any highway to be changed so as to conflict with any
68 designation thereof as a U.S. numbered highway. Where, by a
69 specific act of the Legislature, the commission has been directed
70 to give a certain number to a highway, the commission shall not
71 have the authority to change such number;

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

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



91 of such rules or regulations or noncompliance with such orders
92 shall constitute a misdemeanor;

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

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

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



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

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

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

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



140 and operating a laboratory or laboratories for testing materials
141 and for other proper highway purposes;

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

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

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

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



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

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

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

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



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

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

207 (s) To expend funds in cooperation with the Division of
208 Plant Industry, Mississippi Department of Agriculture and
209 Commerce, the United States government or any department or agency
210 thereof, or with any department or agency of this state, to
211 control, suppress or eradicate serious insect pests, rodents,



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

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

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



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

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

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

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

(y) The Mississippi Transportation Commission may
delegate the authority to enter into a supplemental agreement to a
contract previously approved by the commission if the supplemental
agreement involves an additional expenditure not to exceed * * *
Two Hundred Fifty Thousand Dollars (\$250,000.00);

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



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

(ii) Such an agreement may permit the cost of a highway construction project to be advanced to the commission by a county, municipality, county transportation commission, business, corporation, partnership, association, individual or other legal entity, and repaid to such entity by the commission when highway construction funds become available; provided, however, that repayment of funds advanced to the Mississippi Transportation Commission shall be made no sooner than the commission's identified projected revenue schedule for funding of that particular construction project, and no other scheduled highway construction project established by statute or by the commission may be delayed by an advanced funding project authorized under this paragraph (z). Repayments to a public or private entity that advances funds to the Mississippi Transportation Commission under this paragraph (z) may not include interest or other fees or charges, and the total amount repaid shall not exceed the total amount of funds advanced to the commission by the entity; however, the inclusion of public entities in this provision does not invalidate any existing agreements authorized under this paragraph (z) before April 19, 2022. The commission shall retain the ability to service, refinance or restructure any indebtedness incurred through any such existing agreements.



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

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

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



311 (bb) The Mississippi Transportation Commission is
312 further authorized, in its discretion, to expend funds for the
313 purchase of promotional materials for safety purposes, highway
314 beautification purposes and recruitment purposes;

315 (cc) To lease antenna space on communication towers
316 which it owns;

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

324 (ee) To contract with any county, if the county chooses
325 to enter such contract, to perform any maintenance on the state
326 highways and interstate highways in that county and any
327 rights-of-way to such highways.

328 **SECTION 2.** This act shall take effect and be in force from
329 and after July 1, 2025.

