

By: Representative Maples

To: Transportation

HOUSE BILL NO. 246

1 AN ACT TO AMEND SECTIONS 65-1-59 AND 65-1-75, MISSISSIPPI  
 2 CODE OF 1972, TO PROVIDE THAT THOSE PORTIONS OF HIGHWAY ON THE  
 3 STATE HIGHWAY SYSTEM THAT, FROM AND AFTER JULY 1, 2000, ARE  
 4 RELOCATED, REPLACED OR BYPASSED BY THE MISSISSIPPI DEPARTMENT OF  
 5 TRANSPORTATION IN CONSTRUCTION OF THE FOUR-LANE HIGHWAY PROGRAM  
 6 SHALL NOT RETURN TO THE JURISDICTION OF THE COUNTY OR MUNICIPALITY  
 7 WHERE LOCATED BUT SHALL REMAIN AS PART OF THE STATE HIGHWAY SYSTEM  
 8 AND SHALL BE UNDER THE JURISDICTION OF THE MISSISSIPPI  
 9 TRANSPORTATION COMMISSION FOR CONSTRUCTION AND MAINTENANCE; AND  
 10 FOR RELATED PURPOSES.

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

12 **SECTION 1.** Section 65-1-59, Mississippi Code of 1972, is  
 13 amended as follows:

14 65-1-59. (1) It shall be the duty of the Mississippi  
 15 Transportation Commission to have the Mississippi Department of  
 16 Transportation carry out all contracts and agreements, including  
 17 federal-aid projects and agreements under the County Highway Aid  
 18 Law of 1946, being Sections 65-11-1 to 65-11-37, heretofore made  
 19 or entered into with any county, subject, however, to applicable  
 20 rules and regulations of the Federal Highway Administration. It  
 21 shall be the duty of the Transportation Commission to continue to  
 22 have the Transportation Department maintain all state highways now  
 23 under maintenance or hereafter taken over for maintenance, the  
 24 purpose of this provision being to preserve the status quo of all  
 25 state highways insofar as such highways have been taken over and  
 26 control and jurisdiction has been assumed by the \* \* \* commission  
 27 and \* \* \* department; however, except as otherwise provided in  
 28 this section, if any highway or link of highway is removed from  
 29 the state highway system by legislative act or by relocation or  
 30 reconstruction, it shall no longer be maintained by or be under  
 31 the jurisdiction of the \* \* \* commission or \* \* \* department, but



32 shall be returned to the jurisdiction of the board of supervisors  
33 of the county or governing authorities of the municipality through  
34 which such road runs. Except as to segments of highways shorter  
35 than three (3) miles which have been or which are hereafter  
36 replaced through curve straightening or minor realignment, the  
37 Transportation Commission shall retain and have the Transportation  
38 Department maintain as state highways all portions of U.S.  
39 highways that either before or after July 1, 1989, have been or  
40 are replaced and constructed as a part of the interstate highway  
41 system, or four-lane primary system, or which are replaced and  
42 constructed or are designated to be replaced and constructed as  
43 part of the four-lane highway system under Section 65-3-97,  
44 including portions of all such highways so replaced, or which  
45 under Section 65-3-97 are designated to be replaced, by municipal  
46 bypasses; and such highways and portions thereof shall be  
47 continued to be maintained as a part of the Mississippi state  
48 highway system until removed from such system by legislative act.  
49 All such highways and portions thereof which, by virtue of the  
50 provisions of this section, are returned on or after July 1, 1989,  
51 to the jurisdiction of the Mississippi Transportation Commission  
52 shall be maintained by the Mississippi Department of  
53 Transportation only to the traffic capacities existing at the time  
54 that they are returned and any subsequent traffic capacity  
55 improvements or other improvements desired by the county or  
56 municipality within which such highway or portion thereof is  
57 located shall be performed in accordance with highway standards  
58 approved by the \* \* \* commission and the expenses for making such  
59 improvements shall be paid by the county or municipality; however,  
60 all highways and portions thereof so improved by the county or  
61 municipality shall thereafter be maintained by the \* \* \*  
62 department. Before any highway or portion thereof is returned to  
63 the \* \* \* commission under this section, the county or  
64 municipality having jurisdiction thereof shall remove or cause to



65 be removed by July 1, 1991, all right-of-way encroachments along  
66 the entire length of the highway or portion thereof which are not  
67 permitted by \* \* \* commission and \* \* \* department policies and  
68 rules and regulations adopted pursuant to state and federal law.  
69 Any such encroachments may be allowed to remain only by permits  
70 issued by the \* \* \* department in the manner and subject to the  
71 same conditions for the issuance of permits for similar  
72 encroachments on other highways on the state highway system. If  
73 traffic counts indicate that any highway or portions thereof  
74 placed under the jurisdiction of the Transportation Commission  
75 under the provisions of this section no longer form a substantial  
76 part of the state highway system, the \* \* \* commission may request  
77 the Legislature to remove such highways or portions thereof from  
78 the state highway system and return said roads for maintenance to  
79 the county or municipality in which they are located, as provided  
80 in subsection (3) of this section. The highways which the \* \* \*  
81 department is required to continue to maintain by virtue of the  
82 provisions of this section shall be in addition to the total  
83 mileage limitation of eight thousand six hundred (8,600) miles  
84 provided in Section 65-3-3.

85 (2) Notwithstanding any other provisions of this section to  
86 the contrary, those portions of any highway on the designated  
87 state highway system that, from and after July 1, 2000, are  
88 relocated, replaced or bypassed by the Mississippi Department of  
89 Transportation in construction of the four-lane highway program  
90 under Section 65-3-97, shall not return to the jurisdiction of the  
91 county or municipality where located, but shall remain as part of  
92 the designated state highway system and shall be under the  
93 jurisdiction of the Mississippi Transportation Commission for  
94 construction and maintenance.

95 (3) The Mississippi Transportation Commission shall, no  
96 later than October 1, 1981, and October 1 each year thereafter,  
97 furnish the Transportation Committee of the House of



98 Representatives and the Highways and Transportation Committee of  
99 the Senate a recommendation for deletion of those highways or  
100 sections of highways which should be removed from the system.

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

103 65-1-75. (1) The Mississippi Transportation Commission is  
104 authorized and empowered to have the Transportation Department  
105 locate, construct, reconstruct and maintain any designated state  
106 highway under its jurisdiction to, through, across or around any  
107 municipality in the state, regardless of the width of the street  
108 between curbs; and in so locating it is fully empowered to follow  
109 the route of the existing street or to depart therefrom, as in its  
110 discretion it deems advisable, and to obtain and pay for the  
111 necessary rights-of-way, as provided in Section 65-1-47. The  
112 municipality in which such construction is to be undertaken is  
113 likewise authorized to acquire rights-of-way on any such streets  
114 or on any newly located routes, either by purchase, gift or  
115 condemnation. Such rights-of-way may be acquired by either the  
116 municipality or the Transportation Department, subject to the  
117 approval of the commission, and the cost thereof may be borne by  
118 either or both as may be mutually agreed upon. In any event such  
119 municipality may be required to save the commission and department  
120 harmless from any claims for damages arising from the construction  
121 of the highway through such municipality, including claims for  
122 rights-of-way, change of grade line, interference with public  
123 structures, and any and all damages so arising. Municipalities  
124 may secure additional improvements by payment of the additional  
125 cost of same. The commission may require such municipality to  
126 cause to be laid all water, sewer, gas or other pipelines or  
127 conduits, together with all necessary house or lot connections or  
128 services, to the curb line of such road or street to be  
129 constructed, and the commission is authorized to refuse to have  
130 the department lay such pipelines or conduits beneath such roads



131 or streets until the municipality has laid same or entered into an  
132 agreement to reimburse the commission or department for the  
133 expense thereby incurred.

134 (2) All construction of state highways in or through  
135 municipalities, where done at the cost and expense of the state,  
136 whether heretofore or hereafter, shall be maintained in the same  
137 manner and to the same extent as is construction on state highways  
138 outside the limits of municipalities to the end that investment of  
139 the state in such highway so constructed may be preserved and  
140 maintained; and all reasonable rules and regulations with  
141 reference to the preservation and maintenance of such highways  
142 constructed at state expense, whether within or without municipal  
143 limits, may be promulgated by the commission, except that it shall  
144 have no power to promulgate police regulations contrary to  
145 existing law. On any municipal streets or parts or sections  
146 thereof taken over for regular maintenance and maintained by the  
147 department as a part of the state highway system, the municipality  
148 shall not be liable for negligence occasioned by the maintenance  
149 or repair of such streets thus apportioned to and of such width as  
150 is maintained by the department. The municipality shall have full  
151 control and responsibility beyond the curb lines of any designated  
152 highway or street, whether heretofore or hereafter so designated,  
153 (except the interstate system) located within its present or  
154 future expanded municipal corporate limits, regardless of the  
155 ownership of the right-of-way, including but not limited to, the  
156 construction and maintenance of sidewalks, grass mowing and  
157 drainage systems; however, the department may utilize the  
158 right-of-way purchased by the commission without any additional  
159 cost or permission.

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



164 shall provide street illumination and shall clean all streets,  
165 including storm sewer inlets and catch basins. The commission may  
166 enter into an agreement with the municipality or with a private  
167 entity to sweep and clean the designated highways within or  
168 without the corporate limits. The commission may, at state  
169 expense, provide illumination and may clean all interstate  
170 highways within the corporate limits of any municipality. The  
171 right of the municipality to grant franchises over, beneath and  
172 upon such streets is specifically retained, but the municipality  
173 shall require every grantee of a franchise to restore, repair and  
174 replace to its original condition any portion of any such street  
175 damaged or injured by it; however, permission to open the surface  
176 of any municipal street maintained by the department must be  
177 obtained from both the commission and the municipality concerned  
178 before any such opening is made. Each municipality shall retain  
179 full police power over its streets, particularly as to regulating  
180 and enforcing traffic and parking restrictions on such streets,  
181 but any traffic control and parking regulations repugnant to state  
182 law shall be null and void. The commission shall have the  
183 department erect, control and maintain all highway route markers  
184 and directional signs on such streets at state expense. The  
185 commission, at state expense, shall have the department install,  
186 operate, maintain, control, and have full jurisdiction over, all  
187 traffic control devices, including, but not limited to, signals,  
188 signs, striping and lane markings on state highway streets in  
189 municipalities having a population of twenty thousand (20,000) or  
190 less according to the current U.S. census; but municipalities over  
191 twenty thousand (20,000) population according to such census shall  
192 install, operate, maintain and control such devices at their own  
193 expense, subject to approval of the executive director regarding  
194 operations, method of installation and type only. Municipalities  
195 having a population of five thousand (5,000) or more but less than  
196 twenty thousand (20,000) according to the most recent federal



197 census shall only be responsible for electrical operating costs;  
198 and all other costs for the installation, operation and  
199 maintenance of traffic control devices, including the changing of  
200 signal bulbs in traffic signal lights, shall be the responsibility  
201 of the Transportation Department. The commission may purchase at  
202 state expense and install traffic control devices in  
203 municipalities over twenty thousand (20,000) population and donate  
204 them to the municipalities for operation and maintenance whenever  
205 it appears to the commission that, in the interest of safety or  
206 convenience of the motoring public, any of the devices should be  
207 upgraded, replaced or removed. Any revenue from parking meters on  
208 any such streets shall be controlled by and belong to the  
209 municipality.

210 (3) The maintenance of all streets within the limits of any  
211 municipality in this state, regardless of size, which are  
212 presently being regularly maintained, in whole or in part, by the  
213 department at state expense as a part or parts of any designated  
214 state highway shall be continued. Whenever any state highway runs  
215 into or through the corporate limits of any municipality, the  
216 municipal street or the street utilized and marked as a part of  
217 any such state highway may be a part of the state highway system  
218 and may be maintained by the department; however, such route  
219 through any municipality shall be selected by the commission by  
220 orders spread on its minutes describing all such routes, and such  
221 route or routes may be changed, relocated or abandoned by the  
222 commission from time to time, all under the provisions, terms and  
223 conditions herein provided, but the commission shall have the  
224 department maintain only one (1) route of any highway through a  
225 municipality. Upon relocation of such state highway or  
226 abandonment thereof, the municipal street formerly used as a state  
227 highway shall thereby return to the jurisdiction of, and  
228 maintenance by, the municipality.



229       (4) Notwithstanding any other provisions of this section to  
230 the contrary, those portions of any highway on the designated  
231 state highway system that, from and after July 1, 2000, are  
232 relocated, replaced or bypassed by the Mississippi Department of  
233 Transportation in construction of the four-lane highway program  
234 under Section 65-3-97, shall not return to the jurisdiction of the  
235 municipality where located, but shall remain as part of the  
236 designated state highway system and shall be under the  
237 jurisdiction of the Mississippi Transportation Commission for  
238 construction and maintenance.

239       **SECTION 3.** This act shall take effect and be in force from  
240 and after its passage.

