

By: Representative Maples

To: Transportation

HOUSE BILL NO. 247

1 AN ACT TO AMEND SECTIONS 65-1-59 AND 65-1-75, MISSISSIPPI
2 CODE OF 1972, TO PROVIDE THAT THE MISSISSIPPI TRANSPORTATION
3 COMMISSION SHALL RETAIN AND HAVE THE MISSISSIPPI DEPARTMENT OF
4 TRANSPORTATION MAINTAIN AS A STATE HIGHWAY A CERTAIN PORTION OF
5 MISSISSIPPI HIGHWAY 63 IN GEORGE COUNTY AND THE CITY OF LUCEDALE
6 THAT HAS BEEN REPLACED BY THE TRANSPORTATION DEPARTMENT WITH A
7 MUNICIPAL BYPASS; AND FOR RELATED PURPOSES.

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

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

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



30 jurisdiction of the board of supervisors of the county or
31 governing authorities of the municipality through which such road
32 runs. Except as to segments of highways shorter than three (3)
33 miles which have been or which are hereafter replaced through
34 curve straightening or minor realignment, the Transportation
35 Commission shall retain and have the Transportation Department
36 maintain as state highways all portions of U.S. highways that
37 either before or after July 1, 1989, have been or are replaced and
38 constructed as a part of the interstate highway system, or
39 four-lane primary system, or which are replaced and constructed or
40 are designated to be replaced and constructed as part of the
41 four-lane highway system under Section 65-3-97, including portions
42 of all such highways so replaced, or which under Section 65-3-97
43 are designated to be replaced, by municipal bypasses; and such
44 highways and portions thereof shall be continued to be maintained
45 as a part of the Mississippi state highway system until removed
46 from such system by legislative act. All such highways and
47 portions thereof which, by virtue of the provisions of this
48 section, are returned on or after July 1, 1989, to the
49 jurisdiction of the Transportation Commission shall be maintained
50 by the Transportation Department only to the traffic capacities
51 existing at the time that they are returned and any subsequent
52 traffic capacity improvements or other improvements desired by the
53 county or municipality within which such highway or portion
54 thereof is located shall be performed in accordance with highway
55 standards approved by the Transportation Commission and the
56 expenses for making such improvements shall be paid by the county
57 or municipality; however, all highways and portions thereof so
58 improved by the county or municipality shall thereafter be
59 maintained by the Transportation Department. Before any highway
60 or portion thereof is returned to the Transportation Commission
61 under this section, the county or municipality having jurisdiction
62 thereof shall remove or cause to be removed by July 1, 1991, all



63 right-of-way encroachments along the entire length of the highway
64 or portion thereof which are not permitted by Transportation
65 Commission and Transportation Department policies and rules and
66 regulations adopted pursuant to state and federal law. Any such
67 encroachments may be allowed to remain only by permits issued by
68 the Transportation Department in the manner and subject to the
69 same conditions for the issuance of permits for similar
70 encroachments on other highways on the state highway system. If
71 traffic counts indicate that any highway or portions thereof
72 placed under the jurisdiction of the Transportation Commission
73 under the provisions of this section no longer form a substantial
74 part of the state highway system, the Transportation Commission
75 may request the Legislature to remove such highways or portions
76 thereof from the state highway system and return said roads for
77 maintenance to the county or municipality in which they are
78 located, as provided in subsection (2) of this section. The
79 highways which the Transportation Department is required to
80 continue to maintain by virtue of the provisions of this section
81 shall be in addition to all other highways on the state highway
82 system.

83 (2) The Transportation Commission shall, no later than
84 October 1, 1981, and October 1 each year thereafter, furnish the
85 Transportation Committee of the House of Representatives and the
86 Highways and Transportation Committee of the Senate a
87 recommendation for deletion of those highways or sections of
88 highways which should be removed from the system.

89 (3) Notwithstanding any other provisions of this section to
90 the contrary, the Mississippi Transportation Commission shall
91 retain and have the Mississippi Department of Transportation
92 maintain as a state highway that portion of Mississippi Highway 63
93 in George County and the City of Lucedale, beginning at or near
94 Sally Parker Road and extending northerly to U.S. Highway 98, that



95 has been replaced by the Transportation Department with a
96 municipal bypass.

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

99 65-1-75. (1) The Mississippi Transportation Commission is
100 authorized and empowered to have the Transportation Department
101 locate, construct, reconstruct and maintain any designated state
102 highway under its jurisdiction to, through, across or around any
103 municipality in the state, regardless of the width of the street
104 between curbs; and in so locating it is fully empowered to follow
105 the route of the existing street or to depart therefrom, as in its
106 discretion it deems advisable, and to obtain and pay for the
107 necessary rights-of-way, as provided in Section 65-1-47. The
108 municipality in which such construction is to be undertaken is
109 likewise authorized to acquire rights-of-way on any such streets
110 or on any newly located routes, either by purchase, gift or
111 condemnation. Such rights-of-way may be acquired by either the
112 municipality or the Transportation Department, subject to the
113 approval of the commission, and the cost thereof may be borne by
114 either or both as may be mutually agreed upon. In any event such
115 municipality may be required to save the commission and department
116 harmless from any claims for damages arising from the construction
117 of the highway through such municipality, including claims for
118 rights-of-way, change of grade line, interference with public
119 structures, and any and all damages so arising. Municipalities
120 may secure additional improvements by payment of the additional
121 cost of same. The commission may require such municipality to
122 cause to be laid all water, sewer, gas or other pipelines or
123 conduits, together with all necessary house or lot connections or
124 services, to the curb line of such road or street to be
125 constructed, and the commission is authorized to refuse to have
126 the department lay such pipelines or conduits beneath such roads
127 or streets until the municipality has laid same or entered into an



128 agreement to reimburse the commission or department for the
129 expense thereby incurred.

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

156 The municipality shall not allow any encroachments, signs or
157 billboards to be erected or to remain on state-owned rights-of-way
158 on any designated highway within its corporate limits without the
159 consent of the commission. The municipality, at its own expense,
160 shall provide street illumination and shall clean all streets,



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



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

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

225 (4) Notwithstanding any other provisions of this section to
226 the contrary, the Mississippi Transportation Commission shall



227 retain and have the Mississippi Department of Transportation
228 continue to maintain as a state highway that portion of
229 Mississippi Highway 63 in George County and the City of Lucedale,
230 beginning at or near Sally Parker Road and extending northerly to
231 U.S. Highway 98, that has been replaced by the Transportation
232 Department with a municipal bypass.

233 **SECTION 3.** This act shall take effect and be in force from
234 and after July 1, 2002.

