MISSISSIPPI LEGISLATURE REGULAR SESSION 2002

By: Senator(s) Dearing

To: Highways and Transportation

SENATE BILL NO. 2070

AN ACT TO AMEND SECTION 65-1-123, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE MISSISSIPPI TRANSPORTATION COMMISSION TO ADOPT RULES AND REGULATIONS REGARDING THE MANAGEMENT, SALE OR DISPOSAL OF TIMBER ON HIGHWAY RIGHTS-OF-WAY; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 65-1-123, Mississippi Code of 1972, is amended as follows:

65-1-123. (1) Except as otherwise provided in subsection (9) of this section, whenever any personal property has been acquired in any manner by the Mississippi Transportation Commission for public use and in the opinion of the commission, all or any part of the property becomes unnecessary for public use, the commission is authorized to dispose of such property for a fair and reasonable cash market price. Any such sale shall be a sale upon the receipt of sealed bids after reasonable advertisement for bids in such manner and at such time and place as the commission may deem proper and advisable, except that the commission may sell at private sale any such personal property not necessary for public purposes the cash market value of which is less than Five Hundred Dollars ($500.00) * * *. The commission shall have the right to reject any and all bids in its discretion and to sell the property theretofore advertised at private sale for not less than the highest of the rejected bids, or to readvertise.

(2) Except as otherwise provided in subsections (3) and (4) of this section, whenever real property, with the exception of easements for highway purposes, has been acquired by the Mississippi Transportation Commission, in any manner, for public

use and in the opinion of the commission all or any part thereof becomes unnecessary for public use, the same shall be declared on the minutes of the commission as excess property and shall be sold at private sale at market value. If the excess property was a total take from the original owner, then the commission shall offer to such owner, in writing, the first right of refusal to purchase such excess property; however, if after due diligence the original owner cannot be located, then the commission shall offer the first right of refusal to purchase the property to the adjoining property owner or owners. If the excess property was a partial take from the current owner of the parcel of real property from which the excess property was originally taken, then the commission shall be required to offer in writing the first right of refusal to purchase such excess property to such owner. If within forty-five (45) days any owner to whom the commission has offered the first right of refusal under the provisions of this subsection fails to accept the offer to purchase, the property shall then be offered to the adjoining property owner or owners. If within forty-five (45) days an adjoining property owner fails to accept the offer to purchase, then the excess property shall be sold to the highest bidder upon the receipt by the commission of sealed bids after reasonable advertisement for bids in such manner and at such time and place as the commission deems proper and advisable; however, the commission shall have the right to reject any and all bids in its discretion and to sell the property theretofore advertised at private sale for not less than the highest of the rejected bids, or to readvertise. Upon payment of the purchase price, the executive director of the department, upon due authorization by the commission entered on its minutes, may execute a quitclaim deed conveying such property to the purchaser.

(3) Whenever the commission acquires by fee simple interest any property determined to be an uneconomic remnant outside the right-of-way, then the commission may sell the property to the

adjoining property owner or owners for an amount not less than the market value established by the county tax assessor or a state licensed or certified appraiser.

(4) Whenever the commission desires to sell any real property used as maintenance lots, the property shall be sold to the highest bidder upon the receipt by the commission of sealed bids and after reasonable advertisement for bids in such manner and at such time and place as the commission deems proper and advisable; however, the commission, in its discretion, may reject any and all bids and sell the property advertised at private sale for not less than the highest of the rejected bids, or may readvertise. Upon payment of the purchase price, the executive director of the department, upon authorization by the commission entered on its minutes, may execute a quitclaim deed conveying the property to the purchaser.

(5) All easements for highway purposes shall be released when they are determined on the minutes of the commission as no longer needed for such purposes, and when released, they shall be filed by the department in the office of the chancery clerk in the county where the property is located.

(6) In no instance shall any part of any property acquired by the commission, or any interest acquired in such property, including, but not limited to, easements, be construed as abandoned by nonuse, nor shall any encroachment on such property for any length of time constitute estoppel or adverse possession against the state's interests.

(7) It is the intent of the Legislature that the Transportation Commission shall declare property it has acquired and which is no longer needed for public purposes as excess and to sell and/or dispose of such excess property in accordance with the provisions of this section as soon as practicable after such property becomes excess in fact. Unnecessary or excess property or property interests shall be disposed of only upon order of the

Transportation Commission on its minutes as provided in this section.

(8) Whenever any real property has been acquired by the Transportation Commission and in the opinion of the commission all or any part of the property will not be utilized in the near future, the property shall be so declared by the Transportation Commission on its minutes and the commission may lease or rent the property for its market value.

(9) The Mississippi Transportation Commission may adopt such rules and regulations with regard to the management, sale or disposal of timber on highway rights-of-way as it considers appropriate; provided, however, such rules and regulations shall be uniform throughout the state and shall be designed to maximize the value of such timber or minimize the cost of removing such timber.

SECTION 2. This act shall take effect and be in force from and after July 1, 2002.

ST: Transportation Commission; may adopt rules regarding the management, sale or disposal of timber on highway rights-of-way.