

By: Senator(s) Dearing

To: Municipalities; Highways
and Transportation

SENATE BILL NO. 2183

1 AN ACT TO AMEND SECTION 65-1-8, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT RURAL WATER DISTRICTS, RURAL WATER SYSTEMS, NONPROFIT
3 WATER ASSOCIATIONS AND MUNICIPAL PUBLIC WATER SYSTEMS IN
4 MUNICIPALITIES WITH A POPULATION OF 10,000 OR LESS, SHALL NOT BE
5 REQUIRED TO BEAR THE COST AND EXPENSE OF REMOVAL AND RELOCATION OF
6 THEIR FACILITIES FROM THE RIGHTS-OF-WAY OF STATE HIGHWAYS; TO
7 PROVIDE THAT THE COST AND EXPENSE OF SUCH REMOVAL SHALL BE PAID BY
8 THE MISSISSIPPI DEPARTMENT OF TRANSPORTATION; AND FOR RELATED
9 PURPOSES.

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

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

13 65-1-8. (1) The Mississippi Transportation Commission shall
14 have the following general powers, duties and responsibilities:

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

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

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

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

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

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



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

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

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

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



64 enacted, or with any ordinance of municipalities. A monthly
65 publication giving general information to the boards of
66 supervisors, employees and the public may be issued under such
67 rules and regulations as the commission may determine;

68 (d) To give suitable numbers to highways and to change
69 the number of any highway that shall become a part of the state
70 highway system. However, nothing herein shall authorize the
71 number of any highway to be changed so as to conflict with any
72 designation thereof as a U.S. numbered highway. Where, by a
73 specific act of the Legislature, the commission has been directed
74 to give a certain number to a highway, the commission shall not
75 have the authority to change such number;

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

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



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

106 (f) To regulate and abandon grade crossings on any road
107 fixed as a part of the state highway system, and whenever the
108 commission, in order to avoid a grade crossing with the railroad,
109 locates or constructs said road on one side of the railroad, the
110 commission shall have the power to abandon and close such grade
111 crossing, and whenever an underpass or overhead bridge is
112 substituted for a grade crossing, the commission shall have power
113 to abandon such grade crossing and any other crossing adjacent
114 thereto. Included in the powers herein granted shall be the power
115 to require the railroad at grade crossings, where any road of the
116 state highway system crosses the same, to place signal posts with
117 lights or other warning devices at such crossings at the expense
118 of the railroad, and to regulate and abandon underpass or overhead
119 bridges and, where abandoned because of the construction of a new
120 underpass or overhead bridge, to close such old underpass or
121 overhead bridge, or, in its discretion, to return the same to the
122 jurisdiction of the county board of supervisors;

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

126 (h) To make proper and reasonable rules and regulations
127 for the removal from the public rights-of-way of any form of
128 obstruction, to cooperate in improving their appearance, and to
129 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 and operating a laboratory or laboratories for testing materials and for other proper highway purposes;

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

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

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

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



163 markers, including those which have been approved and purchased by
164 the State Historical Commission, along state highways, and to have
165 constructed and maintained roadside driveways for convenience and
166 safety in viewing them when necessary; however, no highway or
167 bridge shall ever be memorialized to a man while living;

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

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

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

192 (r) To cooperate, in its discretion, with the
193 Mississippi Forestry Commission and the School of Forestry,
194 Mississippi State University, in a forestry management program,
195 including planting, thinning, cutting and selling, upon the



right-of-way of any highway, constructed, acquired or maintained by the Transportation Department, and to sell and dispose of any and all growing timber standing, lying or being on any right-of-way acquired by the commission for highway purposes in the future; such sale or sales to be made in accordance with the sale of personal property which has become unnecessary for public use as provided for in Section 65-1-123, Mississippi Code of 1972;

(s) To expend funds in cooperation with the Division of Plant Industry, Mississippi Department of Agriculture and Commerce, the United States government or any department or agency thereof, or with any department or agency of this state, to 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



229 official regarding the working, guarding, safekeeping, clothing
230 and subsistence of such persons performing work for the
231 Transportation Department. Such persons shall not be deemed
232 agents, employees or involuntary servants of the Transportation
233 Department while performing such work or while going to and from
234 work or other specified areas;

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

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

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

250 (y) The Mississippi Transportation Commission may
251 delegate the authority to enter into a supplemental agreement to a
252 contract previously approved by the commission if the supplemental
253 agreement involves an additional expenditure not to exceed One
254 Hundred Thousand Dollars (\$100,000.00);

255 (z) (i) The Mississippi Transportation Commission, in
256 its discretion, may enter into agreements with any county,
257 municipality, county transportation commission, business,
258 corporation, partnership, association, individual or other legal
259 entity, for the purpose of accelerating the completion date of
260 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 an 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.

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

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

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

