

By: Senator(s) Dearing

To: Highways and
Transportation;
Appropriations

SENATE BILL NO. 2364

1 AN ACT TO CREATE THE MISSISSIPPI SCENIC BYWAYS PROGRAM; TO
2 DEFINE CERTAIN TERMS AS USED IN THE ACT; TO CREATE A SCENIC BYWAYS
3 ADVISORY COMMITTEE TO ASSIST THE DEPARTMENT IN THE DEVELOPMENT AND
4 ADMINISTRATION OF THE MISSISSIPPI SCENIC BYWAY PROGRAM, THE
5 ADOPTION OF A CORRIDOR MANAGEMENT PLAN, THE REVIEW OF SCENIC BYWAY
6 APPLICATIONS AND THE SELECTION AND NOMINATION OF HIGHWAYS, ROADS
7 AND STREETS AS SCENIC BYWAYS; TO REQUIRE SCENIC BYWAY NOMINATIONS
8 TO BE SUBMITTED TO THE LEGISLATURE AND ENACTED INTO LAW IN ORDER
9 TO BECOME OFFICIALLY DESIGNATED AS A SCENIC BYWAY; TO AUTHORIZE
10 THE MISSISSIPPI DEPARTMENT OF TRANSPORTATION TO ACCEPT DONATIONS,
11 BEQUESTS, GIFTS, GRANTS, APPROPRIATIONS OF MONEY, IN-KIND
12 CONTRIBUTIONS AND THINGS OF VALUE FROM ANY SOURCE, PUBLIC OR
13 PRIVATE, INCLUDING INDIVIDUALS, ORGANIZATIONS AND FEDERAL, STATE
14 AND LOCAL GOVERNMENTAL BODIES, FOR THE PURPOSE OF ESTABLISHING AND
15 MAINTAINING THE MISSISSIPPI SCENIC BYWAYS PROGRAM; TO CREATE A
16 SPECIAL FUND IN THE STATE TREASURY TO BE DESIGNATED AS THE "SCENIC
17 BYWAYS DEVELOPMENT AND MAINTENANCE FUND" FOR THE DEPOSIT OF ALL
18 SUCH MONIES SO RECEIVED BY THE DEPARTMENT; TO PRESCRIBE THE
19 PURPOSES FOR WHICH MONIES IN THE SPECIAL FUND MAY BE EXPENDED; TO
20 REQUIRE THE ADVISORY COMMITTEE TO REVIEW PERIODICALLY EACH
21 DESIGNATED SCENIC BYWAY TO ENSURE THAT THE PROGRAM PARTICIPANTS
22 ARE MEETING THEIR OBLIGATIONS UNDER THE PLAN AND THAT THE BYWAY
23 CONTINUES TO POSSESS THE INTRINSIC QUALITIES AND MEET THE CRITERIA
24 WHICH SUPPORTED ITS INITIAL DESIGNATION; TO AUTHORIZE THE
25 LEGISLATURE, UPON RECOMMENDATION OF THE ADVISORY COMMITTEE TO
26 DE-DESIGNATE A SCENIC BYWAY THAT IS NOT BEING MAINTAINED PROPERLY
27 OR THAT HAS LOST ITS NECESSARY INTRINSIC QUALITIES; AND FOR
28 RELATED PURPOSES.

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

30 **SECTION 1.** This act shall be known and may be cited as the
31 "Mississippi Scenic Byways Program."

32 **SECTION 2.** As used in this act, the following terms have the
33 meanings ascribed to them in this section unless the context
34 clearly requires otherwise:

35 (a) "Corridor" means a highway, road or street
36 right-of-way and the adjacent area that is visible from and
37 extends along the highway, road or street;

38 (b) "Department" means the Mississippi Department of
39 Transportation;



40 (c) "Intrinsic qualities," as related to scenic byways,
41 include:

42 (i) Scenic: Beauty, whether natural or man-made.
43 The quality of the feature is measured by how memorable,

44 distinctive, unique, uninterrupted and unified a scenic byway is;

45 (ii) Natural: Minimal disturbance of the natural
46 ecological features that are associated with the region;

47 (iii) Historic: Landscapes, buildings, structures
48 or other visual evidence of the past other than just a site;

49 (iv) Cultural: Visual evidence of the unique
50 customs, traditions, folklore or rituals of a currently existing
51 human group;

52 (v) Archeological: Visual evidence of the unique
53 customs, traditions, folklores or rituals of a no longer existing
54 human group;

55 (vi) Recreational: Use of a scenic byway or its
56 corridor for recreational activities like jogging, biking,
57 roadside picnics or for direct access to recreational sites like
58 campgrounds, lakes etc.;

59 (d) "Program" means the Mississippi Scenic Byways
60 Program created under the provisions of this act;

61 (e) "Scenic byway" means a public highway, road or
62 street, including the corridor through which it passes, that has
63 been designated as a scenic byway in order to develop, promote and
64 maintain its intrinsic qualities.

65 **SECTION 3.** The Mississippi Department of Transportation,
66 upon approval of the Mississippi Transportation Commission, may
67 administer a Mississippi Scenic Byways Program. Under the
68 program, the department, with assistance from the Scenic Byways
69 Advisory Committee created under Section 4 of this act, shall
70 develop, adopt and implement a scenic byways corridor management
71 plan for the state. The plan shall be consistent with the
72 provisions of this act and with guidelines established by federal



73 law, and shall specify actions, procedures, controls, operational
74 practices and administrative strategies necessary to govern the
75 selection, nomination and declaration of scenic byways and to
76 ensure that highways, roads, streets and corridors designated as
77 scenic byways are properly managed and that their intrinsic
78 qualities are maintained.

79 **SECTION 4.** (1) There is created a Scenic Byways Advisory
80 Committee to assist the department in the development and
81 administration of the Mississippi Scenic Byway Program, the
82 adoption of a corridor management plan, the review of scenic byway
83 applications and the selection and nomination of highways, roads
84 and streets as scenic byways. The committee shall consist of:

85 (a) Two (2) members from each of the following
86 entities, with one (1) member from each entity being the executive
87 director of that entity, or his or her designee, and the other
88 member being a member of that entity selected by its executive
89 director:

90 (i) The Mississippi Department of Transportation;

91 (ii) The Mississippi Development Authority,
92 Division of Tourism Development;

93 (iii) The Keep Mississippi Beautiful/People
94 Against Litter Association;

95 (iv) The Mississippi Association of Supervisors;

96 (v) The Mississippi Outdoor Advertising
97 Association;

98 (vi) The Mississippi Retail Association;

99 (vii) The Mississippi Tourism Association; and

100 (viii) The Mississippi Municipal League; and

101 (b) Three (3) members to be selected by the Mississippi
102 Transportation Commission, one (1) from each commissioner's
103 district.

104 (2) The corridor management plan adopted by the committee
105 shall use best management practices to maintain the intrinsic



106 qualities of highways, roads and streets designated as scenic
107 byways while ensuring the rights of landowners, including riparian
108 owners, to continue existing agriculture, forestry, water supply,
109 recreational, residential, commercial and industrial uses, and any
110 other uses of land and water, identified in the plan. The
111 department may enter into agreements for the mutual management of
112 scenic byways with counties, municipalities and other political
113 subdivisions of the state, state and federal agencies and private
114 landowners or businesses. The plan shall ensure that landowners
115 have input into management practices of any land or water that is
116 designated as a scenic byway or that is included within a scenic
117 byway corridor. Land placed in the program shall not be obtained
118 by eminent domain. A landowner's decision to participate in the
119 program shall be entirely voluntary and a participating landowner
120 may terminate his participation at any time without liability,
121 criminally or civilly, for his subsequent failure to participate.
122 Counties, municipalities and other political subdivisions of the
123 state may participate in the program as landowners in the same
124 manner as private landowners. For the purposes of carrying out
125 the intent of this act, counties, municipalities and other
126 political subdivisions of the state, in addition to and
127 supplemental to any other powers authorized by law for the
128 acquisition of real property, may acquire by donation or purchase,
129 but not by eminent domain, interests in real property.

130 (3) The plan adopted under this act shall be in compliance
131 with all applicable Federal Highway Administration rules,
132 regulations and policies regarding outdoor advertising on or along
133 a highway, road or street designated as a scenic byway. Nothing
134 in this act shall be interpreted as amending or limiting any
135 county or municipal zoning or land use ordinance unless the county
136 or municipality has authorized the amendment according to the
137 procedure provided for in its ordinance.



138 (4) A corridor management plan may not become effective
139 until a draft of the plan has been submitted for review and
140 recommendation to the Transportation Committee of the House of
141 Representatives and the Highways and Transportation Committee of
142 the Senate.

143 **SECTION 5.** (1) The corridor management plan adopted under
144 this act shall establish criteria, policies and procedures that
145 will permit county boards of supervisors, municipal governing
146 authorities and the Mississippi Department of Transportation to
147 submit to the advisory committee applications for highways, roads
148 and streets under the governmental entity's respective
149 jurisdiction for nomination as a scenic byway. Nothing in the
150 corridor management plan shall be interpreted as amending or
151 limiting any county or municipal zoning or land use ordinances
152 unless the county or municipality has authorized the amendment
153 according to the procedure provided for in its ordinance. The
154 corridor management plan shall authorize county boards of
155 supervisors and municipal governing authorities to submit one or
156 more plans for one or more highways, roads or streets to be
157 designated a scenic byway that may have management requirements
158 that are more strict than the department's corridor management
159 plan. Such plans for a scenic byway submitted by a county or
160 municipality shall describe the additional management requirements
161 proposed for application to the scenic byway and, if approved by
162 the department, shall apply only to the approved scenic byway. In
163 carrying out the purposes of this act and the specific plans for
164 scenic byways, counties and municipalities may include in such
165 specific plans for the corridor (including, but not limited to,
166 medians) provisions for planting and replanting of trees, shrubs
167 and flowers; vegetative buffers, design guidelines and limitations
168 for landscaping, signage and lighting; and noise guidelines and
169 limitations. The authority granted to counties and municipalities



170 under this subsection is supplementary and in addition to any
171 other authority that a county or municipality may have under law.

172 (2) After receipt of an application, the advisory committee
173 shall hold a public meeting in the geographic area where the
174 proposed scenic byway is located to receive comments and
175 recommendations from the public. Notice of the meeting, along
176 with a description of the highway, road or street proposed as a
177 scenic byway shall be given once each week for at least three (3)
178 consecutive weeks by publication in some newspaper having a
179 general circulation in the county where the proposed scenic byway
180 is located. Following the public meeting, the committee may
181 nominate the highway, road or street as a scenic byway if it is
182 eligible and meets the guidelines established under the program.
183 A highway, road or street that has been nominated by the committee
184 as a scenic byway shall be submitted by the advisory committee to
185 the Legislature at the next regular session of the Legislature
186 following its nomination. A highway, road or street that has been
187 nominated as a scenic byway may be designated as an official
188 Mississippi Scenic Byway only by its introduction and passage as a
189 legislative bill.

190 (3) The advisory committee shall review each designated
191 scenic byway not less often than once each two (2) years to make
192 sure that the program participants are meeting their obligations
193 under the plan and that the byway continues to possess the
194 intrinsic qualities and meet the criteria which supported its
195 initial designation. If the committee finds that a designated
196 byway is not being maintained according to established standards
197 or that it has lost its necessary intrinsic qualities, the
198 committee shall report its findings to the Legislature and the
199 Legislature, by legislation, may de-designate the byway.

200 **SECTION 6.** (1) The department may accept donations,
201 bequests, gifts, grants, appropriations of money, in-kind
202 contributions and things of value from any source, public or



203 private, including individuals, organizations and federal, state
204 and local governmental bodies, for the purpose of establishing and
205 maintaining the Mississippi Scenic Byways Program. All such money
206 so received by the department shall be deposited into a special
207 fund that is created in the State Treasury to be designated as the
208 "Scenic Byways Development and Maintenance Fund." Unexpended
209 amounts remaining in the fund at the end of a fiscal year shall
210 not lapse into the State General Fund, and any investment earnings
211 or interest earned on amounts in the fund shall be deposited to
212 the credit of the fund.

213 (2) Monies in the Scenic Byways Development and Maintenance
214 Fund may be expended, upon legislative appropriation, for the
215 following purposes:

216 (a) To plan, design and develop the Mississippi Scenic
217 Byways Program;

218 (b) To develop and implement a corridor management plan
219 for the purposes of maintaining the intrinsic qualities of scenic
220 byways and providing accommodation of increased tourism and
221 development of related amenities;

222 (c) To make safety improvements to Mississippi Scenic
223 Byways, a National Scenic Byway or an All-American Road to the
224 extent that the improvements are necessary to accommodate
225 increased traffic and changes in the types of vehicles using the
226 highway, road or street as a result of the designation;

227 (d) To construct along scenic byways facilities for use
228 of pedestrians and bicyclists, rest areas, turnouts, highway
229 shoulder improvements, passing lanes, overlooks and interpretive
230 facilities;

231 (e) To make improvements to scenic byways that will
232 enhance access to recreation areas, including water-related
233 recreations;

234 (f) To protect the intrinsic qualities of areas
235 adjacent to scenic byways;



236 (g) To develop and provide tourist information to the
237 public, including interpretive information about scenic byways;

238 (h) To develop and implement scenic byway marketing
239 programs; and

240 (i) To match monies made available from the federal
241 government for the establishment and maintenance of the scenic
242 byways program.

243 **SECTION 7.** (1) This act shall not prohibit, restrict or
244 otherwise affect the operation, maintenance or new construction of
245 any facility, road, railroad, bridge, utility, pipeline, crossing
246 or any other use or activity in or related to a scenic byway area
247 that is lawful at the time that the scenic byway is designated.

248 (2) Nothing in this act shall mandate local governments to
249 participate in the program, and a local governmental entity may
250 terminate participation in the program at any time by resolution
251 duly adopted and entered upon its minutes.

252 **SECTION 8.** This act shall take effect and be in force from
253 and after July 1, 2002.

