

*****Adopted*****

AMENDMENT No. 1 PROPOSED TO

Senate Bill NO. 2098

By Representative(s) Committee

**Amend by striking all after the enacting clause and inserting
in lieu thereof the following:**

34 **SECTION 1.** Section 55-13-35, Mississippi Code of 1972, is
35 amended as follows:

36 55-13-35. (1) It shall be unlawful to construct or erect a
37 building, advertising structure or other structure, of more than
38 three (3) stories or thirty-five (35) feet in height, whichever is
39 lesser, within one thousand (1,000) feet of the outside boundary
40 of the Natchez Trace Parkway. Such restrictions on buildings and
41 structures shall apply notwithstanding that such area is located
42 inside or outside a municipality and notwithstanding any other
43 provisions of law to the contrary.

44 (2) It is the legislative intent of this section, in part,
45 that possession of a building permit on July 1, 1988, shall not
46 allow any construction after July 1, 1988, based on that permit.
47 This section shall not apply to any building in existence on July
48 1, 1988.

49 (3) The following buildings or structures are exempt from
50 the application of this section if they were constructed or under
51 construction prior to July 1, 2002:

52 (a) Silos, buildings and structures designed for
53 agricultural use;

54 **(b)** Churches; and

55 **(c)** Any building or structure * * * on property
56 that * * * is owned by a public school district and used for
57 educational purposes * * *.

58 **SECTION 2.** Sections 2 through 8 of this act shall be known
59 and may be cited as the "Mississippi Scenic Byways Program."

60 **SECTION 3.** As used in Sections 2 through 8 of this act, the
61 following terms have the meanings ascribed to them in this section
62 unless the context clearly requires otherwise:

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

66 (b) "Department" means the Mississippi Department of
67 Transportation;

68 (c) "Intrinsic qualities," as related to scenic byways,
69 include:

70 (i) Scenic: Beauty, whether natural or man-made.
71 The quality of the feature is measured by how memorable,
72 distinctive, unique, uninterrupted and unified a scenic byway is;

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

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

77 (iv) Cultural: Visual evidence of the unique
78 customs, traditions, folklore or rituals of a currently existing
79 human group;

80 (v) Archeological: Visual evidence of the unique
81 customs, traditions, folklores or rituals of a no longer existing
82 human group;

83 (vi) Recreational: Use of a scenic byway or its
84 corridor for recreational activities like jogging, biking,
85 roadside picnics or for direct access to recreational sites like
86 campgrounds, lakes, etc.;

87 (d) "Program" means the Mississippi Scenic Byways
88 Program created under the provisions of Sections 2 through 8 of

89 this act;

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

94 **SECTION 4.** The Mississippi Department of Transportation,
95 upon approval of the Mississippi Transportation Commission, may
96 administer a Mississippi Scenic Byways Program. Under the
97 program, the department, with assistance from the Scenic Byways
98 Advisory Committee created under Section 5 of this act, shall
99 develop, adopt and implement a scenic byways corridor management
100 plan for the state. The plan shall be consistent with the
101 provisions of Sections 2 through 8 of this act and with guidelines
102 established by federal law, and shall specify actions, procedures,
103 controls, operational practices and administrative strategies
104 necessary to govern the selection, nomination and declaration of
105 scenic byways and to ensure that highways, roads, streets and
106 corridors designated as scenic byways are properly managed and
107 that their intrinsic qualities are maintained.

108 **SECTION 5.** (1) There is created a Scenic Byways Advisory
109 Committee to assist the department in the development and
110 administration of the Mississippi Scenic Byway Program, the
111 adoption of a corridor management plan, the review of scenic byway
112 applications and the selection and nomination of highways, roads
113 and streets as scenic byways. The committee shall consist of:

114 (a) Two (2) members from each of the following
115 entities, with one (1) member from each entity being the executive
116 director of that entity, or his or her designee, and the other
117 member being a member of that entity selected by its executive
118 director:

119 (i) The Mississippi Department of Transportation;

120 (ii) The Mississippi Development Authority,
121 Division of Tourism Development;

122 (iii) The Keep Mississippi Beautiful/People
123 Against Litter Association;

(iv) The Mississippi Association of Supervisors;
(v) The Mississippi Outdoor Advertising Association;
(vi) The Mississippi Retail Association;
(vii) The Mississippi Tourism Association; and
(viii) The Mississippi Municipal League; and

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

(2) The corridor management plan adopted by the committee shall use best management practices to maintain the intrinsic qualities of highways, roads and streets designated as scenic byways while ensuring the rights of landowners, including riparian owners, to continue existing agriculture, forestry, water supply, recreational, residential, commercial and industrial uses, and any other uses of land and water, identified in the plan. The department may enter into agreements for the mutual management of scenic byways with counties, municipalities and other political subdivisions of the state, state and federal agencies and private landowners or businesses. The plan shall ensure that landowners have input into management practices of any land or water that is designated as a scenic byway or that is included within a scenic byway corridor. Land placed in the program shall not be obtained by eminent domain. A landowner's decision to participate in the program shall be entirely voluntary and a participating landowner may terminate his participation at any time without liability, criminally or civilly, for his subsequent failure to participate.

Counties, municipalities and other political subdivisions of the state may participate in the program as landowners in the same manner as private landowners. For the purposes of carrying out the intent of Sections 2 through 8 of this act, counties, municipalities and other political subdivisions of the state, in addition to and supplemental to any other powers authorized by law for the acquisition of real property, may acquire by donation or purchase, but not by eminent domain, interests in real property.

(3) The plan adopted under Sections 2 through 8 of this act

shall be in compliance with all applicable Federal Highway Administration rules, regulations and policies regarding outdoor advertising on or along a highway, road or street designated as a scenic byway. Nothing in Sections 2 through 8 of this act shall be interpreted as amending or limiting any county or municipal zoning or land use ordinance unless the county or municipality has authorized the amendment according to the procedure provided for in its ordinance.

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

SECTION 6. (1) The corridor management plan adopted under Sections 2 through 8 of this act shall establish criteria, policies and procedures that will permit county boards of supervisors, municipal governing authorities and the Mississippi Department of Transportation to submit to the advisory committee applications for highways, roads and streets under the governmental entity's respective jurisdiction for nomination as a scenic byway. Nothing in the corridor management plan shall be interpreted as amending or limiting any county or municipal zoning or land use ordinances unless the county or municipality has authorized the amendment according to the procedure provided for in its ordinance. The corridor management plan shall authorize county boards of supervisors and municipal governing authorities to submit one or more plans for one or more highways, roads or streets to be designated a scenic byway that may have management requirements that are more strict than the department's corridor management plan. Such plans for a scenic byway submitted by a county or municipality shall describe the additional management requirements proposed for application to the scenic byway and, if approved by the department, shall apply only to the approved scenic byway. In carrying out the purposes of Sections 2 through 8 of this act and the specific plans for scenic byways, counties

194 and municipalities may include in such specific plans for the
195 corridor (including, but not limited to, medians) provisions for
196 planting and replanting of trees, shrubs and flowers; vegetative
197 buffers, design guidelines and limitations for landscaping,
198 signage and lighting; and noise guidelines and limitations. The
199 authority granted to counties and municipalities under this
200 subsection is supplementary and in addition to any other authority
201 that a county or municipality may have under law.

202 (2) After receipt of an application, the advisory committee
203 shall hold a public meeting in the geographic area where the
204 proposed scenic byway is located to receive comments and
205 recommendations from the public. Notice of the meeting, along
206 with a description of the highway, road or street proposed as a
207 scenic byway shall be given once each week for at least three (3)
208 consecutive weeks by publication in some newspaper having a
209 general circulation in the county where the proposed scenic byway
210 is located. Following the public meeting, the committee may
211 nominate the highway, road or street as a scenic byway if it is
212 eligible and meets the guidelines established under the program.
213 A highway, road or street that has been nominated by the committee
214 as a scenic byway shall be submitted by the advisory committee to
215 the Legislature at the next regular session of the Legislature
216 following its nomination. A highway, road or street that has been
217 nominated as a scenic byway may be designated as an official
218 Mississippi Scenic Byway only by its introduction and passage as a
219 legislative bill.

220 (3) The advisory committee shall review each designated
221 scenic byway not less often than once each two (2) years to make
222 sure that the program participants are meeting their obligations
223 under the plan and that the byway continues to possess the
224 intrinsic qualities and meet the criteria which supported its
225 initial designation. If the committee finds that a designated
226 byway is not being maintained according to established standards
227 or that it has lost its necessary intrinsic qualities, the
228 committee shall report its findings to the Legislature and the

Legislature, by legislation, may de-designate the byway.

SECTION 7. (1) The department may accept donations, bequests, gifts, grants, appropriations of federal money, in-kind contributions and things of value from any source, public or private, including individuals, organizations and federal, state and local governmental bodies, for the purpose of establishing and maintaining the Mississippi Scenic Byways Program. All such money so received by the department shall be deposited into a special fund that is created in the state treasury to be designated as the "Scenic Byways Development and Maintenance Fund." Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any investment earnings or interest earned on amounts in the fund shall be deposited to the credit of the fund.

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

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

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

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

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

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

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

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

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

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

SECTION 8. (1) Sections 2 through 8 of this act shall not prohibit, restrict or otherwise affect any existing or future lawful use or activity in or related to a scenic byway area. Sections 2 through 8 of this act also shall not prohibit, restrict or otherwise affect the operation, maintenance or new construction of any facility, road, railroad, bridge, utility, pipeline, crossing or any other structure in or related to a scenic byway area. If there is any conflict between this section and any other provision of Sections 2 through 8 of this act, this section shall control.

(2) Nothing in Sections 2 through 8 of this act shall mandate local governments to participate in the program, and a local governmental entity may terminate participation in the program at any time by resolution duly adopted and entered upon its minutes.

SECTION 9. This act shall take effect and be in force from and after July 1, 2002.

Further, amend by striking the title in its entirety and inserting in lieu thereof the following:

AN ACT TO AMEND SECTION 55-13-35, MISSISSIPPI CODE OF 1972, TO MAKE IT CLEAR THAT THE HEIGHT RESTRICTIONS ON STRUCTURES WITHIN 1,000 FEET OF THE NATCHEZ TRACE PARKWAY APPLY TO ADVERTISING STRUCTURES AND TO REMOVE CERTAIN EXEMPTIONS FROM SUCH HEIGHT RESTRICTIONS; TO CREATE THE MISSISSIPPI SCENIC BYWAYS PROGRAM; TO DEFINE CERTAIN TERMS AS USED IN THE ACT; TO CREATE A SCENIC BYWAYS ADVISORY COMMITTEE TO ASSIST THE DEPARTMENT IN THE DEVELOPMENT AND ADMINISTRATION OF THE MISSISSIPPI SCENIC BYWAY PROGRAM, THE ADOPTION OF A CORRIDOR MANAGEMENT PLAN, THE REVIEW OF SCENIC BYWAY APPLICATIONS AND THE SELECTION AND NOMINATION OF HIGHWAYS, ROADS AND STREETS AS SCENIC BYWAYS; TO REQUIRE SCENIC BYWAY NOMINATIONS

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