

By: Senator(s) Kirby

To: Highways and  
Transportation

SENATE BILL NO. 2066

1 AN ACT TO AMEND SECTION 65-1-8, MISSISSIPPI CODE OF 1972, TO  
2 AUTHORIZE THE MISSISSIPPI TRANSPORTATION COMMISSION TO PURCHASE  
3 EMPLOYMENT PRACTICES LIABILITY INSURANCE AND AN EXCESS POLICY TO  
4 COVER CATASTROPHIC LOSSES INCURRED UNDER THE COMMISSION'S  
5 SELF-INSURED WORKERS' COMPENSATION PROGRAM; AND FOR RELATED  
6 PURPOSES.

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

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

10 65-1-8. (1) The Mississippi Transportation Commission shall  
11 have the following general powers, duties and responsibilities:

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

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

16 (c) To make recommendations to the Legislature  
17 regarding alterations or modifications in any existing  
18 transportation policies;

19 (d) To study means of encouraging travel and  
20 transportation of goods by the combination of motor vehicle and  
21 other modes of transportation;

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

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

28 (2) In addition to the general powers, duties and  
29 responsibilities listed in subsection (1) of this section, the



30 Mississippi Transportation Commission shall have the following  
31 specific powers:

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

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

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



63 supervisors, employees and the public may be issued under such  
64 rules and regulations as the commission may determine;

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

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

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

94 (iii) Rural water districts, rural water systems,  
95 nonprofit water associations and municipal public water systems in



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

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

120 (g) To make proper and reasonable rules and regulations  
121 to control the cutting or opening of the road surfaces for  
122 subsurface installations;

123 (h) To make proper and reasonable rules and regulations  
124 for the removal from the public rights-of-way of any form of  
125 obstruction, to cooperate in improving their appearance, and to  
126 prescribe minimum clearance heights for seed conveyors, pipes,  
127 passageways or other structure of private or other ownership above  
128 the highways;



129           (i) To establish, and have the Transportation  
130 Department maintain and operate, and to cooperate with the state  
131 educational institutions in establishing, enlarging, maintaining  
132 and operating a laboratory or laboratories for testing materials  
133 and for other proper highway purposes;

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

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

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

142           (m) To provide for the purchase of necessary equipment  
143 and vehicles and to provide for the repair and housing of same, to  
144 acquire by gift, purchase, condemnation or otherwise, land or  
145 lands and buildings in fee simple, and to authorize the  
146 Transportation Department to construct, lease or otherwise provide  
147 necessary and proper permanent district offices for the  
148 construction and maintenance divisions of the department, and for  
149 the repair and housing of the equipment and vehicles of the  
150 department; however, in each Supreme Court district only two (2)  
151 permanent district offices shall be set up, but a permanent status  
152 shall not be given to any such offices until so provided by act of  
153 the Legislature and in the meantime, all shops of the department  
154 shall be retained at their present location. As many local or  
155 subdistrict offices, shops or barns may be provided as is  
156 essential and proper to economical maintenance of the state  
157 highway system;

158           (n) To cooperate with the Department of Archives and  
159 History in having placed and maintained suitable historical  
160 markers, including those which have been approved and purchased by  
161 the State Historical Commission, along state highways, and to have



162 constructed and maintained roadside driveways for convenience and  
163 safety in viewing them when necessary;

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

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

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

188 (r) To cooperate, in its discretion, with the  
189 Mississippi Forestry Commission and the School of Forestry,  
190 Mississippi State University, in a forestry management program,  
191 including planting, thinning, cutting and selling, upon the  
192 right-of-way of any highway, constructed, acquired or maintained  
193 by the Transportation Department, and to sell and dispose of any  
194 and all growing timber standing, lying or being on any



195 right-of-way acquired by the commission for highway purposes in  
196 the future; such sale or sales to be made in accordance with the  
197 sale of personal property which has become unnecessary for public  
198 use as provided for in Section 65-1-123, Mississippi Code of 1972;

199 (s) To expend funds in cooperation with the Division of  
200 Plant Industry, Mississippi Department of Agriculture and  
201 Commerce, the United States government or any department or agency  
202 thereof, or with any department or agency of this state, to  
203 control, suppress or eradicate serious insect pests, rodents,  
204 plant parasites and plant diseases on the state highway  
205 rights-of-way;

206 (t) To provide for the placement, erection and  
207 maintenance of motorist services business signs and supports  
208 within state highway rights-of-way in accordance with current  
209 state and federal laws and regulations governing the placement of  
210 traffic control devices on state highways, and to establish and  
211 collect reasonable fees from the businesses having information on  
212 such signs;

213 (u) To request and to accept the use of persons  
214 convicted of an offense, whether a felony or a misdemeanor, for  
215 work on any road construction, repair or other project of the  
216 Transportation Department. The commission is also authorized to  
217 request and to accept the use of persons who have not been  
218 convicted of an offense but who are required to fulfill certain  
219 court-imposed conditions pursuant to Section 41-29-150(d)(1) or  
220 99-15-26, Mississippi Code of 1972, or the Pretrial Intervention  
221 Act, being Sections 99-15-101 through 99-15-127, Mississippi Code  
222 of 1972. The commission is authorized to enter into any  
223 agreements with the Department of Corrections, the State Parole  
224 Board, any criminal court of this state, and any other proper  
225 official regarding the working, guarding, safekeeping, clothing  
226 and subsistence of such persons performing work for the  
227 Transportation Department. Such persons shall not be deemed



228 agents, employees or involuntary servants of the Transportation  
229 Department while performing such work or while going to and from  
230 work or other specified areas;

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

233 (w) The Mississippi Transportation Commission is  
234 further authorized, in its discretion, to expend funds for the  
235 purchase of service pins for employees of the Mississippi  
236 Transportation Department;

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

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

251 (z) (i) The Mississippi Transportation Commission, in  
252 its discretion, may enter into agreements with any county,  
253 municipality, county transportation commission, business,  
254 corporation, partnership, association, individual or other legal  
255 entity, for the purpose of accelerating the completion date of  
256 scheduled highway construction projects.

257 (ii) Such an agreement may permit the cost of a  
258 highway construction project to be advanced to the commission by a  
259 county, municipality, county transportation commission, business,  
260 corporation, partnership, association, individual or other legal



261 entity, and repaid to such entity by the commission when highway  
262 construction funds become available; provided, however, that  
263 repayment of funds advanced to the Mississippi Transportation  
264 Commission shall be made no sooner than the commission's  
265 identified projected revenue schedule for funding of that  
266 particular construction project, and no other scheduled highway  
267 construction project established by statute or by the commission  
268 may be delayed by an advanced funding project authorized under  
269 this paragraph (z). Repayments to an entity that advances funds  
270 to the Mississippi Transportation Commission under this paragraph  
271 (z) may not include interest or other fees or charges, and the  
272 total amount repaid shall not exceed the total amount of funds  
273 advanced to the commission by the entity.

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

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

285 (aa) The Mississippi Transportation Commission, in its  
286 discretion, may purchase employment practices liability insurance,  
287 and may purchase an excess policy to cover catastrophic losses  
288 incurred under the commission's self-insured workers' compensation  
289 program authorized under Section 71-3-5. Such policies shall be  
290 written by the agent or agents of a company or companies  
291 authorized to do business in the State of Mississippi. The  
292 deductibles shall be in an amount deemed reasonable and prudent by  
293 the commission, and the premiums thereon shall be paid from the



294 State Highway Fund. Purchase of insurance under this paragraph  
295 shall not serve as an actual or implied waiver of sovereign  
296 immunity or of any protection afforded the commission under the  
297 Mississippi Tort Claims Act.

298         **SECTION 2.** This act shall take effect and be in force from  
299 and after July 1, 2003.

