

By: Representative Robinson (84th)

To: Transportation

HOUSE BILL NO. 494

1 AN ACT TO AMEND SECTION 65-1-8, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT NONPROFIT NATURAL GAS DISTRICTS SHALL NOT BE REQUIRED
3 TO BEAR THE COST OF REMOVAL OR RELOCATION OF THEIR LINES OR
4 FACILITIES FROM THE RIGHTS-OF-WAY OF STATE HIGHWAYS; TO PROVIDE
5 THAT THE MISSISSIPPI DEPARTMENT OF TRANSPORTATION SHALL BEAR THE
6 COST OF SUCH REMOVAL OR RELOCATION; AND FOR RELATED 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 (iv) Municipal public sewer systems and municipal
104 gas systems owned by municipalities with a population of ten
105 thousand (10,000) or less, according to the latest federal
106 decennial census, shall not be required to bear the cost and
107 expense of removal and relocation of lines and facilities
108 constructed or in place in the rights-of-way of state highways.
109 The cost and expense of such removal and relocation, including any
110 unpaid prior to July 1, 2003, shall be paid by the Department of
111 Transportation;

112 (v) Nonprofit natural gas districts shall not be
113 required to bear the cost and expense of removal and relocation of
114 lines and facilities constructed or in place in the rights-of-way
115 of state highways. The cost and expense of such removal and
116 relocation, including any unpaid before July 1, 2005, shall be
117 paid by the Department of Transportation;

118 (f) To regulate and abandon grade crossings on any road
119 fixed as a part of the state highway system, and whenever the
120 commission, in order to avoid a grade crossing with the railroad,
121 locates or constructs said road on one side of the railroad, the
122 commission shall have the power to abandon and close such grade
123 crossing, and whenever an underpass or overhead bridge is
124 substituted for a grade crossing, the commission shall have power
125 to abandon such grade crossing and any other crossing adjacent
126 thereto. Included in the powers herein granted shall be the power
127 to require the railroad at grade crossings, where any road of the
128 state highway system crosses the same, to place signal posts with

129 lights or other warning devices at such crossings at the expense
130 of the railroad, and to regulate and abandon underpass or overhead
131 bridges and, where abandoned because of the construction of a new
132 underpass or overhead bridge, to close such old underpass or
133 overhead bridge, or, in its discretion, to return the same to the
134 jurisdiction of the county board of supervisors;

135 (g) To make proper and reasonable rules and regulations
136 to control the cutting or opening of the road surfaces for
137 subsurface installations;

138 (h) To make proper and reasonable rules and regulations
139 for the removal from the public rights-of-way of any form of
140 obstruction, to cooperate in improving their appearance, and to
141 prescribe minimum clearance heights for seed conveyors, pipes,
142 passageways or other structure of private or other ownership above
143 the highways;

144 (i) To establish, and have the Transportation
145 Department maintain and operate, and to cooperate with the state
146 educational institutions in establishing, enlarging, maintaining
147 and operating a laboratory or laboratories for testing materials
148 and for other proper highway purposes;

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

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

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

157 (m) To provide for the purchase of necessary equipment
158 and vehicles and to provide for the repair and housing of same, to
159 acquire by gift, purchase, condemnation or otherwise, land or
160 lands and buildings in fee simple, and to authorize the
161 Transportation Department to construct, lease or otherwise provide

162 necessary and proper permanent district offices for the
163 construction and maintenance divisions of the department, and for
164 the repair and housing of the equipment and vehicles of the
165 department; however, in each Supreme Court district only two (2)
166 permanent district offices shall be set up, but a permanent status
167 shall not be given to any such offices until so provided by act of
168 the Legislature and in the meantime, all shops of the department
169 shall be retained at their present location. As many local or
170 subdistrict offices, shops or barns may be provided as is
171 essential and proper to economical maintenance of the state
172 highway system;

173 (n) To cooperate with the Department of Archives and
174 History in having placed and maintained suitable historical
175 markers, including those which have been approved and purchased by
176 the State Historical Commission, along state highways, and to have
177 constructed and maintained roadside driveways for convenience and
178 safety in viewing them when necessary;

179 (o) To cooperate, in its discretion, with the
180 Mississippi Department of Wildlife, Fisheries and Parks in
181 planning and constructing roadside parks upon the right-of-way of
182 state highways, whether constructed, under construction, or
183 planned; said parks to utilize where practical barrow pits used in
184 construction of state highways for use as fishing ponds. Said
185 parks shall be named for abundant flora and fauna existing in the
186 area or for the first flora or fauna found on the site;

187 (p) Unless otherwise prohibited by law, to make such
188 contracts and execute such instruments containing such reasonable
189 and necessary appropriate terms, provisions and conditions as in
190 its absolute discretion it may deem necessary, proper or
191 advisable, for the purpose of obtaining or securing financial
192 assistance, grants or loans from the United States of America or
193 any department or agency thereof, including contracts with several
194 counties of the state pertaining to the expenditure of such funds;

195 (q) To cooperate with the Federal Highway
196 Administration in the matter of location, construction and
197 maintenance of the Great River Road, to expend such funds paid to
198 the commission by the Federal Highway Administration or other
199 federal agency, and to authorize the Transportation Department to
200 erect suitable signs marking this highway, the cost of such signs
201 to be paid from state highway funds other than earmarked
202 construction funds;

203 (r) To cooperate, in its discretion, with the
204 Mississippi Forestry Commission and the School of Forestry,
205 Mississippi State University, in a forestry management program,
206 including planting, thinning, cutting and selling, upon the
207 right-of-way of any highway, constructed, acquired or maintained
208 by the Transportation Department, and to sell and dispose of any
209 and all growing timber standing, lying or being on any
210 right-of-way acquired by the commission for highway purposes in
211 the future; such sale or sales to be made in accordance with the
212 sale of personal property which has become unnecessary for public
213 use as provided for in Section 65-1-123, Mississippi Code of 1972;

214 (s) To expend funds in cooperation with the Division of
215 Plant Industry, Mississippi Department of Agriculture and
216 Commerce, the United States government or any department or agency
217 thereof, or with any department or agency of this state, to
218 control, suppress or eradicate serious insect pests, rodents,
219 plant parasites and plant diseases on the state highway
220 rights-of-way;

221 (t) To provide for the placement, erection and
222 maintenance of motorist services business signs and supports
223 within state highway rights-of-way in accordance with current
224 state and federal laws and regulations governing the placement of
225 traffic control devices on state highways, and to establish and
226 collect reasonable fees from the businesses having information on
227 such signs;

228 (u) To request and to accept the use of persons
229 convicted of an offense, whether a felony or a misdemeanor, for
230 work on any road construction, repair or other project of the
231 Transportation Department. The commission is also authorized to
232 request and to accept the use of persons who have not been
233 convicted of an offense but who are required to fulfill certain
234 court-imposed conditions pursuant to Section 41-29-150(d)(1) or
235 99-15-26, Mississippi Code of 1972, or the Pretrial Intervention
236 Act, being Sections 99-15-101 through 99-15-127, Mississippi Code
237 of 1972. The commission is authorized to enter into any
238 agreements with the Department of Corrections, the State Parole
239 Board, any criminal court of this state, and any other proper
240 official regarding the working, guarding, safekeeping, clothing
241 and subsistence of such persons performing work for the
242 Transportation Department. Such persons shall not be deemed
243 agents, employees or involuntary servants of the Transportation
244 Department while performing such work or while going to and from
245 work or other specified areas;

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

248 (w) The Mississippi Transportation Commission is
249 further authorized, in its discretion, to expend funds for the
250 purchase of service pins for employees of the Mississippi
251 Transportation Department;

252 (x) To cooperate with the State Tax Commission by
253 providing for weight enforcement field personnel to collect and
254 assess taxes, fees and penalties and to perform all duties as
255 required pursuant to Section 27-55-501 et seq., Sections 27-19-1
256 et seq., 27-55-1 et seq., 27-59-1 et seq. and 27-61-1 et seq.,
257 Mississippi Code of 1972, with regard to vehicles subject to the
258 jurisdiction of the Office of Weight Enforcement. All collections
259 and assessments shall be transferred daily to the State Tax
260 Commission;

261 (y) The Mississippi Transportation Commission may
262 delegate the authority to enter into a supplemental agreement to a
263 contract previously approved by the commission if the supplemental
264 agreement involves an additional expenditure not to exceed One
265 Hundred Thousand Dollars (\$100,000.00);

266 (z) (i) The Mississippi Transportation Commission, in
267 its discretion, may enter into agreements with any county,
268 municipality, county transportation commission, business,
269 corporation, partnership, association, individual or other legal
270 entity, for the purpose of accelerating the completion date of
271 scheduled highway construction projects.

272 (ii) Such an agreement may permit the cost of a
273 highway construction project to be advanced to the commission by a
274 county, municipality, county transportation commission, business,
275 corporation, partnership, association, individual or other legal
276 entity, and repaid to such entity by the commission when highway
277 construction funds become available; provided, however, that
278 repayment of funds advanced to the Mississippi Transportation
279 Commission shall be made no sooner than the commission's
280 identified projected revenue schedule for funding of that
281 particular construction project, and no other scheduled highway
282 construction project established by statute or by the commission
283 may be delayed by an advanced funding project authorized under
284 this paragraph (z). Repayments to a private entity that advances
285 funds to the Mississippi Transportation Commission under this
286 paragraph (z) may not include interest or other fees or charges,
287 and the total amount repaid shall not exceed the total amount of
288 funds advanced to the commission by the entity.

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

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

300 (aa) The Mississippi Transportation Commission, in its
301 discretion, may purchase employment practices liability insurance,
302 and may purchase an excess policy to cover catastrophic losses
303 incurred under the commission's self-insured workers' compensation
304 program authorized under Section 71-3-5. Such policies shall be
305 written by the agent or agents of a company or companies
306 authorized to do business in the State of Mississippi. The
307 deductibles shall be in an amount deemed reasonable and prudent by
308 the commission, and the premiums thereon shall be paid from the
309 State Highway Fund. Purchase of insurance under this paragraph
310 shall not serve as an actual or implied waiver of sovereign
311 immunity or of any protection afforded the commission under the
312 Mississippi Tort Claims Act;

313 (bb) The Mississippi Transportation Commission is
314 further authorized, in its discretion, to expend funds for the
315 purchase of promotional materials for safety purposes, highway
316 beautification purposes and recruitment purposes.

317 **SECTION 2.** This act shall take effect and be in force from
318 and after July 1, 2005.