

By: Senator(s) Hewes, Lee (35th), Morgan,  
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To: Highways and  
Transportation

SENATE BILL NO. 2752

1 AN ACT TO AMEND SECTION 65-1-8, MISSISSIPPI CODE OF 1972, TO  
2 AUTHORIZE THE MISSISSIPPI TRANSPORTATION COMMISSION TO LEASE  
3 ANTENNA SPACE ON COMMUNICATION TOWERS WHICH IT OWNS; AND FOR  
4 RELATED PURPOSES.

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

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

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

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

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

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

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

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

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

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

28 Mississippi Transportation Commission shall have the following  
29 specific powers:

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

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

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

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

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

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

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

92 (iii) Rural water districts, rural water systems,  
93 nonprofit water associations and municipal public water systems in

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

101 (iv) Municipal public sewer systems and municipal  
102 gas systems owned by municipalities with a population of ten  
103 thousand (10,000) or less, according to the latest federal  
104 decennial census, shall not be required to bear the cost and  
105 expense of removal and relocation of lines and facilities  
106 constructed or in place in the rights-of-way of state highways.  
107 The cost and expense of such removal and relocation, including any  
108 unpaid prior to July 1, 2003, shall be paid by the Department of  
109 Transportation;

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

127           (g) To make proper and reasonable rules and regulations  
128 to control the cutting or opening of the road surfaces for  
129 subsurface installations;

130           (h) To make proper and reasonable rules and regulations  
131 for the removal from the public rights-of-way of any form of  
132 obstruction, to cooperate in improving their appearance, and to  
133 prescribe minimum clearance heights for seed conveyors, pipes,  
134 passageways or other structure of private or other ownership above  
135 the highways;

136           (i) To establish, and have the Transportation  
137 Department maintain and operate, and to cooperate with the state  
138 educational institutions in establishing, enlarging, maintaining  
139 and operating a laboratory or laboratories for testing materials  
140 and for other proper highway purposes;

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

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

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

149           (m) To provide for the purchase of necessary equipment  
150 and vehicles and to provide for the repair and housing of same, to  
151 acquire by gift, purchase, condemnation or otherwise, land or  
152 lands and buildings in fee simple, and to authorize the  
153 Transportation Department to construct, lease or otherwise provide  
154 necessary and proper permanent district offices for the  
155 construction and maintenance divisions of the department, and for  
156 the repair and housing of the equipment and vehicles of the  
157 department; however, in each Supreme Court district only two (2)  
158 permanent district offices shall be set up, but a permanent status  
159 shall not be given to any such offices until so provided by act of

160 the Legislature and in the meantime, all shops of the department  
161 shall be retained at their present location. As many local or  
162 subdistrict offices, shops or barns may be provided as is  
163 essential and proper to economical maintenance of the state  
164 highway system;

165 (n) To cooperate with the Department of Archives and  
166 History in having placed and maintained suitable historical  
167 markers, including those which have been approved and purchased by  
168 the State Historical Commission, along state highways, and to have  
169 constructed and maintained roadside driveways for convenience and  
170 safety in viewing them when necessary;

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

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

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

193 to be paid from state highway funds other than earmarked  
194 construction funds;

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

206 (s) To expend funds in cooperation with the Division of  
207 Plant Industry, Mississippi Department of Agriculture and  
208 Commerce, the United States government or any department or agency  
209 thereof, or with any department or agency of this state, to  
210 control, suppress or eradicate serious insect pests, rodents,  
211 plant parasites and plant diseases on the state highway  
212 rights-of-way;

213 (t) To provide for the placement, erection and  
214 maintenance of motorist services business signs and supports  
215 within state highway rights-of-way in accordance with current  
216 state and federal laws and regulations governing the placement of  
217 traffic control devices on state highways, and to establish and  
218 collect reasonable fees from the businesses having information on  
219 such signs;

220 (u) To request and to accept the use of persons  
221 convicted of an offense, whether a felony or a misdemeanor, for  
222 work on any road construction, repair or other project of the  
223 Transportation Department. The commission is also authorized to  
224 request and to accept the use of persons who have not been  
225 convicted of an offense but who are required to fulfill certain

226 court-imposed conditions pursuant to Section 41-29-150(d)(1) or  
227 99-15-26, Mississippi Code of 1972, or the Pretrial Intervention  
228 Act, being Sections 99-15-101 through 99-15-127, Mississippi Code  
229 of 1972. The commission is authorized to enter into any  
230 agreements with the Department of Corrections, the State Parole  
231 Board, any criminal court of this state, and any other proper  
232 official regarding the working, guarding, safekeeping, clothing  
233 and subsistence of such persons performing work for the  
234 Transportation Department. Such persons shall not be deemed  
235 agents, employees or involuntary servants of the Transportation  
236 Department while performing such work or while going to and from  
237 work or other specified areas;

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

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

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

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



258           (z) (i) The Mississippi Transportation Commission, in  
259 its discretion, may enter into agreements with any county,  
260 municipality, county transportation commission, business,  
261 corporation, partnership, association, individual or other legal  
262 entity, for the purpose of accelerating the completion date of  
263 scheduled highway construction projects.

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

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

286           (iv) Such an agreement shall be executed only upon  
287 a finding by the commission, spread upon its minutes, that the  
288 acceleration of the scheduled project is both feasible and  
289 beneficial. The commission shall also spread upon its minutes its

290 findings with regard to the factors required to be considered  
291 pursuant to item (iii) of this paragraph (z);

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

305 (bb) The Mississippi Transportation Commission is  
306 further authorized, in its discretion, to expend funds for the  
307 purchase of promotional materials for safety purposes, highway  
308 beautification purposes and recruitment purposes;

309 (cc) To lease antenna space on communication towers  
310 which it owns.

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