

By: Representative Gunn

To: Transportation; Local  
and Private Legislation

HOUSE BILL NO. 197

1 AN ACT TO AMEND SECTION 65-1-169, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT THE MISSISSIPPI TRANSPORTATION COMMISSION SHALL  
3 AUTHORIZE THE CITY OF CLINTON TO INSTALL AND MAINTAIN A FLAG POLE  
4 ON HIGHWAY RIGHT-OF-WAY AT THE INTERSECTION OF U.S. HIGHWAY 80 AND  
5 SPRINGRIDGE ROAD NEAR THE LOCATION OF THE FAMILY CEMETERY PLOT OF  
6 FORMER GOVERNOR WALTER LEAKE; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 65-1-169, Mississippi Code of 1972, is  
9 amended as follows:

10 65-1-169. The Mississippi Transportation Commission is  
11 hereby authorized to maintain property acquired for highway  
12 purposes free and clear of any obstruction, encroachment or any  
13 other use not authorized by the commission. Before removing or  
14 terminating any obstruction, encroachment or other unauthorized  
15 use, the commission shall give notice by registered mail to the  
16 offending party of its intention to remove or terminate such  
17 obstruction, encroachment or other unauthorized use unless, within  
18 forty-five (45) days from the date such notice is mailed, the  
19 offending party institutes a civil action in any court of  
20 competent jurisdiction with respect to the removal or termination  
21 proposed by the commission. When the commission has removed or  
22 terminated any obstruction, encroachment or other unauthorized use  
23 after the mailing of notice as required above and upon the failure  
24 of the offending party to institute an action within the  
25 forty-five-day time period, the commission may institute a civil  
26 action in any court of competent jurisdiction against the  
27 offending party for all costs incurred in the removal or  
28 termination thereof.

29           The Transportation Commission, the Transportation Department  
30 and Transportation Department personnel shall not be liable,  
31 civilly or criminally, for any property damages or personal  
32 injuries incurred by any person for the removal or termination of  
33 such obstruction, encroachment or unauthorized use in accordance  
34 with the provisions of this section provided that reasonable care  
35 is exercised in the termination or removal of the obstruction,  
36 encroachment or unauthorized use. The provisions of this section  
37 shall not be construed as a waiver, in whole or in part, of the  
38 sovereign immunity of the state, the Transportation Commission or  
39 the Transportation Department.

40           The provisions of this section shall apply only to the  
41 removal or termination of obstructions, encroachments or other  
42 unauthorized uses of property acquired for highway purposes which  
43 first occur or are created on or after July 1, 1988. The  
44 provisions of this section shall not apply to or affect any right  
45 or remedy which the Transportation Commission was authorized by  
46 law prior to July 1, 1988, to exercise in the removal or  
47 termination of any such obstructions, encroachments or other  
48 unauthorized uses occurring or created before July 1, 1988.

49           Notwithstanding any other provisions of this section to the  
50 contrary, the Mississippi Transportation Commission shall  
51 authorize the City of Clinton to install and maintain a flag pole  
52 on highway right-of-way at the intersection of U.S. Highway 80 and  
53 Springridge Road near the location of the family cemetery plot of  
54 former Governor Walter Leake. However, such flag pole shall not  
55 be placed in a position that, in the opinion of the commission,  
56 will obstruct the vision of motorists or create a traffic hazard.

57           **SECTION 2.** This act shall take effect and be in force from  
58 and after its passage.