

Chapter No. 468
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HOUSE BILL NO. 436

Originated in House _____  _____ Clerk

HOUSE BILL NO. 436

AN ACT TO AMEND SECTION 65-1-8, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE MISSISSIPPI TRANSPORTATION COMMISSION TO RECEIVE FUNDS FROM THE SOUTHEASTERN ASSOCIATION OF TRANSPORTATION OFFICIALS AND EXPEND THOSE FUNDS FOR SCHOLARSHIPS FOR TRANSPORTATION RELATED STUDIES; TO AMEND SECTIONS 43-39-7, 43-39-9 AND 43-39-11, MISSISSIPPI CODE OF 1972, TO INCREASE THE AMOUNTS OF THE PAYMENTS MADE TO INDIVIDUALS AND ENTITIES DISPLACED BY CERTAIN GOVERNMENT PROJECTS; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

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

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

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

(2) In addition to the general powers, duties and responsibilities listed in subsection (1) of this section, the Mississippi Transportation Commission shall have the following specific powers:

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

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

(c) To make and publish rules, regulations and ordinances for the control of and the policing of the traffic on the state highways, and to prevent their abuse by any or all persons, natural or artificial, by trucks, tractors, trailers or any other heavy or destructive vehicles or machines, or by any other means whatsoever, by establishing weights of loads or of vehicles, types of tires, width of tire surfaces, length and width of vehicles, with reasonable variations to meet approximate weather conditions, and all other proper police and protective regulations, and to provide ample means for the enforcement of same. The violation of any of the rules, regulations or ordinances so prescribed by the commission shall constitute a misdemeanor. No rule, regulation or ordinance shall be made that conflicts with any statute now in force or which may hereafter be enacted, or with any ordinance of municipalities. A monthly publication giving general information to the boards of supervisors, employees and the public may be issued under such rules and regulations as the commission may determine;

(d) To give suitable numbers to highways and to change the number of any highway that shall become a part of the state highway system. However, nothing herein shall authorize the

number of any highway to be changed so as to conflict with any designation thereof as a U.S. numbered highway. Where, by a specific act of the Legislature, the commission has been directed to give a certain number to a highway, the commission shall not have the authority to change such number;

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

(ii) Except as otherwise provided for in this paragraph, whenever the order of the commission shall require the removal of, or other changes in the location of telephone, telegraph or other poles, signboards, gas, water, sewerage, oil or other pipelines; or other similar obstructions on the right-of-way or such other places where removal is required by law, the owners thereof shall at their own expense move or change the same to conform to the order of the commission. Any violation of such

rules or regulations or noncompliance with such orders shall constitute a misdemeanor;

(iii) Rural water districts, rural water systems, nonprofit water associations and municipal public water systems in municipalities with a population of ten thousand (10,000) or less, according to the latest federal decennial census, shall not be required to bear the cost and expense of removal and relocation of water and sewer lines and facilities constructed or in place in the rights-of-way of state highways. The cost and expense of such removal and relocation, including any unpaid prior to July 1, 2002, shall be paid by the Department of Transportation;

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

(f) To regulate and abandon grade crossings on any road fixed as a part of the state highway system, and whenever the commission, in order to avoid a grade crossing with the railroad, locates or constructs said road on one side of the railroad, the commission shall have the power to abandon and close such grade

crossing, and whenever an underpass or overhead bridge is substituted for a grade crossing, the commission shall have power to abandon such grade crossing and any other crossing adjacent thereto. Included in the powers herein granted shall be the power to require the railroad at grade crossings, where any road of the state highway system crosses the same, to place signal posts with lights or other warning devices at such crossings at the expense of the railroad, and to regulate and abandon underpass or overhead bridges and, where abandoned because of the construction of a new underpass or overhead bridge, to close such old underpass or overhead bridge, or, in its discretion, to return the same to the jurisdiction of the county board of supervisors;

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

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

(i) To establish, and have the Transportation Department maintain and operate, and to cooperate with the state educational institutions in establishing, enlarging, maintaining

and operating a laboratory or laboratories for testing materials and for other proper highway purposes;

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

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

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

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

essential and proper to economical maintenance of the state highway system;

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

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

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

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

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

(s) To expend funds in cooperation with the Division of Plant Industry, Mississippi Department of Agriculture and Commerce, the United States government or any department or agency thereof, or with any department or agency of this state, to control, suppress or eradicate serious insect pests, rodents,

plant parasites and plant diseases on the state highway rights-of-way;

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

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

Department while performing such work or while going to and from work or other specified areas;

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

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

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

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

(z) (i) The Mississippi Transportation Commission, in its discretion, may enter into agreements with any county, municipality, county transportation commission, business,

corporation, partnership, association, individual or other legal entity, for the purpose of accelerating the completion date of scheduled highway construction projects.

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

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

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

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

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

(cc) To lease antenna space on communication towers which it owns * * * ;

(dd) To receive funds from the Southeastern Association of Transportation Officials and from other nonstate sources and expend those funds for educational scholarships in transportation related fields of study. The commission may adopt rules or regulations as necessary for the implementation of the program. A strict accounting shall be made of all funds deposited with the commission and all funds dispersed.

SECTION 2. Section 43-39-7, Mississippi Code of 1972, is amended as follows:

43-39-7. (1) If a displacing agency acquires real property for public use, it shall make fair and reasonable relocation payments to displaced persons and businesses as required by this chapter for:

(a) Actual reasonable expenses in moving himself, his family, business, farm operation or other personal property;

(b) Actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the agency;

(c) Actual reasonable expenses in searching for a replacement business or farm; and

(d) Actual reasonable expenses necessary to reestablish a displaced farm, nonprofit organization or small business at its new site in accordance with criteria to be established by the

displacing agency, but not to exceed * * * the maximum amount of relocation payments established by applicable federal regulations.

(2) Any displaced person eligible for payments under subsection (1) of this section who is displaced from a dwelling and who elects to accept the payments authorized by this subsection in lieu of the payments authorized by subsection (1) of this section may receive an expense and dislocation allowance which shall be determined according to a schedule established by the displacing agency.

(3) Any displaced person eligible for payments under subsection (1) of this section, who is displaced from his place of business or from his farm operation and who is eligible under criteria established by the displacing agency may also qualify for the payment authorized by this subsection. Such payment shall consist of a fixed payment in an amount to be determined by the agency, except that such payment shall not be less than One Thousand Dollars (\$1,000.00) nor more than * * * the maximum amount of relocation payments established by applicable federal regulations. A person whose sole business at the displacement dwelling is the rental of such property to others shall not qualify for a payment under this subsection.

SECTION 3. Section 43-39-9, Mississippi Code of 1972, is amended as follows:

43-39-9. (1) In addition to payments otherwise authorized by this chapter, such displacing agency shall make an additional

payment not in excess of * * * the maximum amount of relocation payments established by applicable federal regulations to any displaced person who is displaced from a dwelling actually owned and occupied by the displaced person for not less than * * * ninety (90) days * * * before the initiation of negotiations for the acquisition of the property. The additional payment shall include the following elements:

(a) The amount, if any, which when added to the acquisition cost of the dwelling acquired, equals the reasonable cost of a comparable replacement dwelling which is a decent, safe and sanitary dwelling adequate to accommodate such displaced person, reasonably accessible to public services and places of employment, and available on the private market. All determinations required to carry out this paragraph shall be determined by regulations issued pursuant to Section 43-39-17;

(b) The amount, if any, which will compensate the displaced person for any increased interest costs and other debt service costs which the person is required to pay for financing the acquisition of any such comparable replacement dwelling. The amount shall be paid only if the dwelling acquired by the displacing agency was encumbered by a bona fide mortgage which was a valid lien on the dwelling for not less than * * * ninety (90) days * * * before the initiation of negotiations for the acquisition of the dwelling. Payment determinations shall be in

accordance with regulations issued pursuant to Section 43-39-17;
and

(c) Reasonable expenses incurred by the displaced person for evidence of title, recording fees and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses.

(2) The additional payment authorized by this section shall be made only to a displaced person who purchases and occupies a decent, safe and sanitary replacement dwelling within one (1) year after the date on which he receives final payment from the displacing agency for the acquired dwelling, or the date on which the displacing agency's obligation under Section 43-39-13, is met, whichever is the later date, except that the displacing agency may extend such period for good cause. If such period is extended, the payment under this section shall be based on the costs of relocating the person to a comparable replacement dwelling within one (1) year of such date.

SECTION 4. Section 43-39-11, Mississippi Code of 1972, is amended as follows:

43-39-11. (1) In addition to amounts otherwise authorized by this chapter, the head of a displacing agency shall make a payment to or for any displaced person displaced from any dwelling not eligible to receive a payment under Section 43-39-9, which dwelling was actually and lawfully occupied by the displaced person for not less than ninety (90) days immediately prior to the

initiation of negotiations for acquisition of such dwelling, or in any case in which displacement is not a direct result of acquisition, such other event as the head of the agency shall prescribe. Such payment shall consist of the amount necessary to enable such person to lease or rent for a period not to exceed forty-two (42) months, a comparable replacement dwelling, but not to exceed * * * the maximum amount of relocation payments established by applicable federal regulations. At the discretion of the head of the displacing agency, a payment under this subsection may be made in periodic installments. Computation of a payment under this subsection to a low-income displaced person for a comparable replacement dwelling shall take into account such person's income.

(2) Any person eligible for a payment under subsection (1) of this section may elect to apply such payment to a down payment on, and other incidental expenses pursuant to, the purchase of a decent, safe and sanitary replacement dwelling. Any such person may, at the discretion of the head of the displacing agency, be eligible under this subsection for the maximum payment allowed under subsection (1) * * *.

SECTION 5. This act shall take effect and be in force from and after its passage.

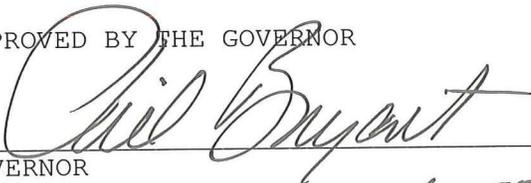
PASSED BY THE HOUSE OF REPRESENTATIVES
February 7, 2013


SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
March 7, 2013


PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR


GOVERNOR

2:55pm
3/26/13