

By: Senator(s) Ross

To: County Affairs;
Judiciary

SENATE BILL NO. 2199

1 AN ACT TO AUTHORIZE THE BOARD OF SUPERVISORS OF CERTAIN
2 COUNTIES TO ESTABLISH SEPARATE ZONING COMMISSIONS FOR INDIVIDUAL
3 SUPERVISORS' ELECTION DISTRICTS; TO PROVIDE FOR THE MANNER OF
4 APPOINTMENT AND TERMS OF OFFICE OF MEMBERS OF SUCH ZONING
5 COMMISSIONS; TO REQUIRE A REFERENDUM ON THE QUESTION OF
6 ESTABLISHING SUCH ZONING COMMISSIONS UPON THE FILING BY A CERTAIN
7 NUMBER OF QUALIFIED ELECTORS OF A WRITTEN PETITION PROTESTING THE
8 ESTABLISHMENT OF SUCH ZONING COMMISSIONS; TO PRESCRIBE THE POWERS
9 AND DUTIES OF SUCH ZONING COMMISSIONS; TO PRESCRIBE THE PENALTIES
10 THAT MAY BE IMPOSED FOR VIOLATING ANY REGULATIONS PROMULGATED BY
11 ANY SUCH COMMISSION; TO AMEND SECTION 17-1-3, MISSISSIPPI CODE OF
12 1972, IN CONFORMITY TO THE PROVISIONS OF THIS ACT; AND FOR RELATED
13 PURPOSES.

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

15 SECTION 1. The following shall be codified as Section
16 17-2-1, Mississippi Code of 1972:

17 17-2-1. (1) The board of supervisors of any county that has
18 not adopted an ordinance establishing zoning regulations in
19 accordance with a comprehensive plan for physical development of
20 the entire county under the provisions of Chapter 1, Title 17,
21 Mississippi Code of 1972, may authorize, by order duly adopted and
22 entered on its minutes, any member of the board of supervisors to
23 establish a zoning commission for the supervisors district from
24 which the member was elected. Each such commission shall consist
25 of five (5) qualified electors who are residents of the
26 supervisors district in which the commission is to be established.

27 The members of the commission shall be appointed, with the
28 approval of the board of supervisors, by the member of the board
29 of supervisors in whose district the commission is to be
30 established. Members of the commission shall serve terms
31 concurrent with the board of supervisors and may receive no
32 compensation for their services, but may receive their actual and

33 necessary expenses incurred in the performance of their duties as
34 prescribed in Section 25-3-41.

35 (2) The provisions of Chapter 1, Title 17, Mississippi Code
36 of 1972, shall be inapplicable to any county that establishes a
37 zoning commission under the provisions of this chapter.

38 SECTION 2. The following shall be codified as Section
39 17-2-3, Mississippi Code of 1972:

40 17-2-3. (1) Before a zoning commission may be established
41 under the provisions of Section 17-2-1, the board of supervisors,
42 by resolution spread upon its minutes, shall declare its intention
43 to authorize the establishment of the commission. Notice of the
44 intention shall be published once each week for at least three (3)
45 consecutive weeks in a newspaper published or having a general
46 circulation in the county. The first publication shall be made
47 not less than twenty-one (21) days before the date fixed in the
48 resolution declaring the intention to establish the commission,
49 and the last publication shall be made not more than seven (7)
50 days before that date. If on or before the date specified in the
51 resolution, twenty percent (20%) or five hundred (500), whichever
52 is less, of the qualified electors of that portion of the
53 supervisors district that lies outside the boundaries of any
54 incorporated municipality file a written protest against the
55 establishment of such commission, then an election on the
56 establishment of the commission shall be called as provided in
57 this section. If no protest is filed, then the board of
58 supervisors may authorize the establishment of the commission at
59 any time within a period of two (2) years after the date specified
60 in the resolution. If an election is required by the protest of
61 the appropriate number of qualified electors of the district, then
62 an election shall be held by the board under applicable laws.
63 However, nothing in this chapter shall prevent the board from
64 calling an election, whether required by twenty percent (20%) or
65 five hundred (500), whichever is less, of the qualified electors
66 of that portion of the district that lies outside the boundaries
67 of any incorporated municipality, in which event it shall not be
68 necessary to publish the resolution of intent as described in this
69 subsection.

70 (2) At the election, all qualified electors of that portion

71 of the supervisors district that lies outside the boundaries of
72 any incorporated municipality may vote, and the ballots used in
73 the election shall have printed thereon the words "FOR THE
74 ESTABLISHMENT OF A ZONING COMMISSION IN SUPERVISORS DISTRICT
75 _____ (here enter the supervisors district number)" and
76 "AGAINST ESTABLISHMENT OF A ZONING COMMISSION IN SUPERVISORS
77 DISTRICT _____ (here enter the supervisors district number)," and
78 the voters shall vote by placing a cross (X) or check (_)
79 opposite their choice on the proposition.

80 SECTION 3. The following shall be codified as Section
81 17-2-5, Mississippi Code of 1972:

82 17-2-5. A zoning commission established under the provisions
83 of this chapter may regulate the height, number of stories and
84 size of buildings and other structures, the percentage of a lot
85 that may be occupied, the size of yards, courts and other open
86 spaces, the density of population, and the location and use of
87 buildings, structures and land for trade, industry, residence or
88 other purposes in any area of the supervisors district that lies
89 outside the boundaries of any incorporated municipality. However,
90 no permits shall be required with reference to land used for
91 agricultural purposes, including forestry activities as defined in
92 Section 95-3-29(2)(c), or for the erection, maintenance, repair or
93 extension of farm buildings or farm structures, including forestry
94 buildings and structures.

95 SECTION 4. The following shall be codified as Section
96 17-2-7, Mississippi Code of 1972:

97 17-2-7. In the exercise and enforcement of the powers
98 conferred by this chapter, each supervisors district zoning
99 commission may act independently from any other supervisors
100 district zoning commission within the county, or, in the
101 discretion of the zoning commissions, two (2) or more zoning
102 commissions may act jointly in order to attain uniformity and
103 consistency in the zoning regulations for the areas to be
104 affected.

105 SECTION 5. The following shall be codified as Section
106 17-2-9, Mississippi Code of 1972:

107 17-2-9. A zoning commission may divide a supervisors
108 district into zones of such number, shape and area as may be
109 deemed best suited to carry out the purposes of this chapter.
110 Within the zones created, a zoning commission, subject to the
111 restrictions with respect to agricultural lands and farm buildings
112 or structures as set out in Section 17-2-1, may regulate and
113 restrict the erection, construction, reconstruction, alteration,
114 repair or use of buildings, structures or land. All regulations
115 shall be uniform for each class or kind of buildings throughout
116 each zone, but regulations in one zone may differ from those in
117 other zones.

118 SECTION 6. The following shall be codified as Section
119 17-2-11, Mississippi Code of 1972:

120 17-2-11. Zoning regulations shall be designed to lessen
121 congestion in the streets; to secure safety from fire, panic and
122 other dangers; to provide adequate light and air; to prevent the
123 overcrowding of land; to avoid undue concentration of population;
124 and to facilitate the adequate provision of transportation, water,
125 sewerage, schools, parks and other public requirements. Such
126 regulations shall be made with reasonable consideration, among
127 other things, to the character of the district and its peculiar
128 suitability for particular uses, and with a view to conserving the
129 value of buildings, and encouraging the most appropriate use of
130 land throughout the district.

131 SECTION 7. The following shall be codified as Section
132 17-2-13, Mississippi Code of 1972:

133 17-2-13. In carrying out its zoning duties, a supervisors
134 district zoning commission may utilize the services of the county
135 engineering department or the services of an advisory committee of
136 citizens of such number as may be deemed appropriate to recommend
137 the appropriate regulations to be enforced within the district. A
138 preliminary report may be made, and public hearings may be had

139 thereon, before submitting its final report to the commission.

140 SECTION 8. The following shall be codified as Section
141 17-2-15, Mississippi Code of 1972:

142 17-2-15. The zoning commission shall provide for the manner
143 in which zoning ordinances (including the official zoning map),
144 and subdivision regulations shall be determined, established and
145 enforced, and from time to time, amended, supplemented or changed.
146 However, no such plan, ordinance (including zoning boundaries), or
147 regulations shall become effective until after a public hearing
148 before the commission, in relation thereto, at which parties in
149 interest, and citizens, shall have an opportunity to be heard. At
150 least fifteen (15) days' notice of the time and place of the
151 hearing shall be published.

152 SECTION 9. The following shall be codified as Section
153 17-2-17, Mississippi Code of 1972:

154 17-2-17. Zoning regulations, restrictions and boundaries
155 may, from time to time, be amended, supplemented, changed,
156 modified or repealed upon at least fifteen (15) days' notice of a
157 hearing before the commission on such amendment, supplement,
158 change, modification or repeal. The notice shall be given in a
159 newspaper published or having a general circulation in the county
160 specifying a time and place for the hearing. Any party aggrieved
161 with the recommendation of the zoning commission shall be entitled
162 to a public hearing before the commission, with due notice thereof
163 after publication for the time and as provided in this section.

164 In case of a protest against such change signed by the owners
165 of twenty percent (20%) or more, either of the area of the lots
166 included in such proposed change, or of those immediately adjacent
167 to the rear thereof, extending one hundred sixty (160) feet
168 therefrom or of those directly opposite thereto, extending one
169 hundred sixty (160) feet from the street frontage of such opposite
170 lots, such amendment shall not become effective except by the
171 favorable vote of two-thirds (2/3) of all the members of the
172 zoning commission.

173 SECTION 10. The following shall be codified as Section
174 17-2-19, Mississippi Code of 1972:

175 17-2-19. If any building or structure is erected,
176 constructed, reconstructed, altered, repaired, converted or
177 maintained, or any building, structure or land, is used in
178 violation of the zoning law or of any ordinance or other
179 regulation made under authority conferred under this chapter, the
180 zoning commission, in addition to other remedies, may institute
181 any appropriate action or proceedings to prevent such unlawful
182 erection, construction, reconstruction, alteration, repair,
183 conversion, maintenance or use, to restrain, correct, or abate
184 such violation, to prevent the occupancy of the building,
185 structure or land, or to prevent any illegal act, conduct,
186 business, or use in or about the premises.

187 SECTION 11. The following shall be codified as Section
188 17-2-21, Mississippi Code of 1972:

189 17-2-21. Whenever the provisions of any other statute or
190 local ordinance or regulation require a greater width or size of
191 yards, courts or other open spaces, or require a lower height of
192 building, or a less number of stories, or a greater percentage of
193 lot to be left unoccupied, or impose other standards higher than
194 are required by the regulations made under the authority of this
195 chapter, the provisions of such other statute, or local ordinance
196 or regulation shall govern; otherwise, the provisions of the
197 regulations made under the authority of this chapter shall be
198 controlling.

199 SECTION 12. The following shall be codified as Section
200 17-2-23, Mississippi Code of 1972:

201 17-2-23. (1) When new subdivisions are laid out, the board
202 of supervisors of any county where the provisions of this chapter
203 have been made effective, before allowing dedication, may impose
204 such terms as it deems necessary to meet the requirements of this
205 chapter, and the county may receive easements in the land
206 affected.

207 (2) The board of supervisors of any county may order that no
208 plat of a subdivision shall be recorded until it has been approved
209 by the applicable zoning commission and the board of supervisors,
210 and the board of supervisors shall have power to require the
211 installation of utilities and laying out of streets in
212 subdivisions or to accept performance bonds in lieu thereof.

213 SECTION 13. The following shall be codified as Section
214 17-2-25, Mississippi Code of 1972:

215 17-2-25. The board of supervisors of a county, in its
216 discretion, may accept in the name of the county, for maintenance,
217 any road or street that is completed to acceptable specifications
218 established by the board of supervisors of each subdivision or
219 subdivisions that is located within the boundaries of the county.

220 By acceptance of such street or road by the county, even though
221 the subdivision is not completed as proposed or platted, the
222 county shall not be bound to accept in part or in its entirety
223 such subdivision when it is completed except as provided by
224 regular procedures by ordinance or regulation of the county.

225 SECTION 14. The following shall be codified as Section
226 17-2-27, Mississippi Code of 1972:

227 17-2-27. Any person, firm or corporation who knowingly and
228 willfully violates the terms, conditions or provisions of a zoning
229 ordinance adopted under the authority of this chapter, for
230 violation of which no other criminal penalty is prescribed, shall
231 be guilty of a misdemeanor and, upon conviction, shall be
232 sentenced to pay a fine of not to exceed One Hundred Dollars
233 (\$100.00). In case of continuing violations without reasonable
234 effort on the part of the defendant to correct the violations,
235 each day that the violation continues shall be a separate offense.

236 SECTION 15. Section 17-1-3, Mississippi Code of 1972, is
237 amended as follows:

238 17-1-3. (1) Except as otherwise provided in Article VII of
239 the Chickasaw Trail Economic Development Compact described in
240 Section 57-36-1, for the purpose of promoting health, safety,

241 morals, or the general welfare of the community, the governing
242 authority of any municipality, and, with respect to the
243 unincorporated part of any county, the governing authority of any
244 county, in its discretion, are empowered to regulate the height,
245 number of stories and size of building and other structures, the
246 percentage of lot that may be occupied, the size of the yards,
247 courts and other open spaces, the density of population, and the
248 location and use of buildings, structures and land for trade,
249 industry, residence or other purposes, but no permits shall be
250 required with reference to land used for agricultural purposes,
251 including forestry activities as defined in Section 95-3-29(2)(c),
252 or for the erection, maintenance, repair or extension of farm
253 buildings or farm structures, including forestry buildings and
254 structures, outside the corporate limits of municipalities. The
255 governing authority of each county and municipality may create
256 playgrounds and public parks, and for these purposes, each of such
257 governing authorities shall possess the power, where requisite, of
258 eminent domain and the right to apply public money thereto, and
259 may issue bonds therefor as otherwise permitted by law.

260 (2) This chapter does not apply to any county that
261 establishes a zoning commission under Chapter 2, Title 17,
262 Mississippi Code of 1972.

263 SECTION 16. This act shall take effect and be in force from
264 and after July 1, 1999.