

By: Minor

To: County Affairs;  
Finance

SENATE BILL NO. 2720  
(As Sent to Governor)

1        AN ACT TO AUTHORIZE THE BOARD OF SUPERVISORS OF ANY COUNTY TO  
2 ENTER INTO DEVELOPMENT AGREEMENTS WITH THE DEVELOPERS OF MASTER  
3 PLANNED COMMUNITIES IN ORDER TO AUTHORIZE MASTER PLANNED  
4 COMMUNITIES, THROUGH A COMMUNITY SELF-GOVERNING ENTITY, TO  
5 ADMINISTER, MANAGE AND ENFORCE THE LAND USE RESTRICTIONS AND  
6 COVENANTS, ZONING REGULATIONS, BUILDING CODES AND REGULATIONS, AND  
7 ANY OTHER LIMITATIONS AND RESTRICTIONS ON LAND AND BUILDINGS  
8 PROVIDED FOR IN THE MASTER PLAN FOR SUCH COMMUNITY; TO PROVIDE  
9 THAT SUCH ENFORCEMENT SHALL BE IN LIEU OF THE REAL ESTATE AND  
10 PROPERTY OWNERS WITHIN THE MASTER PLANNED COMMUNITY BEING SUBJECT  
11 TO COUNTY ORDINANCES AND REGULATIONS PERTAINING TO BUILDINGS,  
12 SUBDIVISIONS, ZONING, THE COUNTY'S COMPREHENSIVE PLAN AND SIMILAR  
13 ORDINANCES OF THE COUNTY; TO PROVIDE THAT CERTAIN SUBSTANTIAL  
14 MODIFICATIONS OF THE MASTER PLAN SHALL BE SUBJECT TO, AND SHALL  
15 NOT TAKE EFFECT UNTIL, APPROVAL BY THE BOARD OF SUPERVISORS; TO  
16 PROVIDE THAT IN CASES IN WHICH THE ORDINANCES OF THE COUNTY  
17 CONFLICT WITH THE DEVELOPMENT AGREEMENT, THE DEVELOPMENT AGREEMENT  
18 SHALL PREVAIL IN CERTAIN INSTANCES; TO DEFINE THE TERM "MASTER  
19 PLANNED COMMUNITY"; TO AMEND SECTION 65-4-5, MISSISSIPPI CODE OF  
20 1972, TO REVISE THE DEFINITION OF THE TERMS "MASTER PLANNED  
21 COMMUNITY" AND "HIGH ECONOMIC BENEFIT PROJECT" FOR PURPOSES OF THE  
22 ECONOMIC DEVELOPMENT HIGHWAY ACT; TO AMEND SECTION 19-5-9,  
23 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED  
24 PURPOSES.

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

26        SECTION 1. (1) The board of supervisors of any county is  
27 authorized to enter into one or more development agreements with  
28 the developer or developers of a master planned community in order  
29 to authorize, in addition to any other matters to which the board  
30 of supervisors may lawfully obligate the county, the master  
31 planned community, through a community self-governing entity  
32 created by the owners of the property, to administer, manage, and  
33 enforce the land use restrictions and covenants, land use  
34 regulations, subdivision regulations, building codes and  
35 regulations, and any other limitations and restrictions on land  
36 and buildings provided in the master plan for the master planned  
37 community, in lieu of the real estate and property owners within

38 the master planned community being subject to the county  
39 ordinances and regulations pertaining to buildings, subdivisions,  
40 zoning, the county's comprehensive plan, and any other county  
41 ordinances and regulations pertaining thereto. Prior to entering  
42 into any such development agreement, the board of supervisors  
43 shall review the master plan for the master planned community and  
44 find that the provisions of the master plan providing for  
45 regulations, restrictions, covenants and limitations pertaining to  
46 building, subdivisions, zoning and comprehensive planning shall be  
47 comparable to, or greater than, similar provisions in the  
48 ordinances and regulations of the county. The term of such a  
49 development agreement may be not more than thirty (30) years or  
50 the number of years allowed in the county's subdivision ordinance  
51 for terms of subdivision covenants, whichever is greater. The  
52 development agreement shall have attached to it a boundary survey  
53 made by a registered land surveyor, and upon approval of the  
54 development agreement by the board of supervisors, the boundary  
55 survey shall be recorded in the land records of the chancery clerk  
56 of the county. The recorded boundary survey shall serve as the  
57 description of the property within the master planned community  
58 which shall not be subject to the county's zoning map, and the  
59 county's zoning map shall simply recognize the territory described  
60 in such boundary survey as a "master planned community." Whenever  
61 there may be a conflict between the county ordinances and  
62 regulations pertaining to buildings, subdivisions, zoning, the  
63 county's comprehensive plan, and any other county ordinances and  
64 regulations pertaining thereto, and the provisions of such a  
65 development agreement, including the provisions of the master plan  
66 providing for regulations, restrictions, covenants, and  
67 limitations pertaining to buildings, subdivisions, zoning and  
68 comprehensive planning, the provisions of the development  
69 agreement shall prevail if the provisions of the development  
70 agreement are comparable to or greater than similar provisions of  
71 county ordinances and regulations.

72 (2) As used in this section, the term "master planned  
73 community" means a development by one or more developers of real  
74 estate consisting of residential, commercial, educational, health

75 care, open space and recreational components that is developed  
76 pursuant to a long range, multi-phase master plan providing  
77 comprehensive land use planning and staged implementation and  
78 development and the master plan must include the following minimum  
79 provisions:

80 (a) The real estate described in the master plan must  
81 consist of at least three thousand five hundred (3,500) acres.  
82 The master plan may require that not less than fifty percent (50%)  
83 of the total dwelling units planned for such acreage must be:

84 (i) Dwelling units within a certified retirement  
85 community certified by the Mississippi Department of Economic and  
86 Community Development; or

87 (ii) Dwelling units where at least one (1)  
88 occupant:

89 A. Is sixty-two (62) years of age; or

90 B. Receives pension income reported on his or  
91 her most recent federal income tax return filed prior to  
92 occupancy; or

93 C. Declares himself to be retired.

94 (b) The real estate described in the master plan must  
95 be subjected to a set of land use restrictions imposed by deed  
96 restriction or restrictive covenants recorded by the developer in  
97 the land records of the chancery clerk of the county as land is  
98 developed and sold in phases to users. Such restrictions shall  
99 include design guidelines and standards that provide for:

100 (i) Internal community self-governance by the  
101 owners of the property;

102 (ii) The establishment of one or more legal  
103 persons endowed with the powers, rights and duties to administer,  
104 manage, own and maintain common areas, establish community  
105 activities and enforce the land use restrictions on the common  
106 areas and private property; and

107 (iii) The establishment of assessments and lien

108 rights to fund amenities, services and maintenance of common  
109 areas.

110 (c) The real estate described in the master plan must  
111 be within the territorial boundaries of one or more public utility  
112 districts established by the county for the provision of water and  
113 sewer facilities and water and sewer services.

114 (3) The master plan for a master planned community shall be  
115 subject to modification from time to time by the original owner or  
116 owners of the real estate described in the initial master plan,  
117 its affiliates, successors or assigns, to meet changing economic  
118 and market conditions; provided, however, any such modifications  
119 in the master plan which materially change the regulations,  
120 restrictions, covenants and limitations pertaining to buildings,  
121 subdivisions and land use regulations approved in the development  
122 agreement, or which significantly change the overall plan concept,  
123 shall be subject to, and shall not take effect until, approved by  
124 the board of supervisors of the county.

125 (4) As used in this section, the term "dwelling unit" means  
126 single-family residences, apartments or other units within a  
127 multi-family residence, or a room or apartment in a nursing home  
128 or congregate-care facility.

129 SECTION 2. Section 65-4-5, Mississippi Code of 1972, is  
130 amended as follows:[CR1]

131 65-4-5. (1) The following words when used in this chapter  
132 shall have the meanings herein ascribed unless the context  
133 otherwise clearly requires:

134 (a) "Board" means the Mississippi Department of  
135 Economic and Community Development;

136 (b) "Department" means the Mississippi Department of  
137 Transportation;

138 (c) "High economic benefit project" means (i) any new  
139 investment by a private company with capital investments in land,  
140 buildings, depreciable fixed assets and improvements of at least

141 Fifty Million Dollars (\$50,000,000.00); (ii) any new investment of  
142 at least Twenty Million Dollars (\$20,000,000.00) by a private  
143 company having capital investments in this state in land,  
144 buildings, depreciable fixed assets and improvements of at least  
145 One Billion Dollars (\$1,000,000,000.00) in the aggregate; (iii)  
146 public investment of at least One Hundred Million Dollars  
147 (\$100,000,000.00) to take place over a specified period of time  
148 and in accordance with a master plan duly adopted by the  
149 controlling political subdivision; (iv) any new investments in  
150 land, buildings, depreciable fixed assets and improvements by two  
151 (2) private companies upon land that is adjacent whenever the new  
152 investments of both companies are at least Sixty Million Dollars  
153 (\$60,000,000.00) in the aggregate, and such new investments by  
154 both private companies provide for the employment of at least five  
155 hundred (500) employees in the aggregate; (v) any project which  
156 would benefit from the construction of any highway bypass which  
157 would aid in economic development and would provide an alternate  
158 route to avoid an existing route which underpasses a railroad and  
159 which would aid in existing or proposed industry; \* \* \* (vi) any  
160 master planned community \* \* \*; or (vii) any new investments in  
161 land, buildings, depreciable fixed assets and improvements by not  
162 more than three (3) private companies physically located within a  
163 one-half (1/2) mile radius of each other whenever the new  
164 investments of such companies are at least Sixty Million Dollars  
165 (\$60,000,000.00) in the aggregate, and such new investments by  
166 such companies provide for the employment of at least three  
167 hundred (300) new employees in the aggregate. However, if a  
168 private company that has met the definition of a high economic  
169 benefit project under paragraph (c)(i) of this subsection and that  
170 has been approved for such project has investments in land,  
171 buildings, depreciable fixed assets and improvements which exceeds  
172 Fifty Million Dollars (\$50,000,000.00), then an amount equal to  
173 fifty percent (50%) of such investments that exceeds Fifty Million

174 Dollars (\$50,000,000.00) shall be subtracted from the Sixty  
175 Million Dollars (\$60,000,000.00) in aggregate value of new  
176 investments required under this paragraph (c)(vii).

177 (d) "Political subdivision" means one or more counties  
178 or incorporated municipalities in the state, or a state-owned port  
179 located in a county bordering on the Gulf of Mexico;

180 (e) "Private company" means (i) any agricultural,  
181 aquacultural, maricultural, processing, distribution, warehousing,  
182 manufacturing or research and development enterprise; (ii) any air  
183 transportation and maintenance facility, regional shopping mall,  
184 hospital, large hotel, resort or movie industry studio; (iii) the  
185 federal government with respect to any specific project which  
186 meets the criteria established in paragraph (c) (i) of this  
187 subsection; (iv) any existing or proposed industry in regard to a  
188 project described in paragraph (c) (v) of this subsection; or (v)  
189 a developer with respect to any specific project which meets the  
190 criteria established in paragraph (c) (vi) of this subsection.

191 (f) "Master planned community" shall have the same  
192 meaning as that term is defined in Section 1 of Senate Bill No.  
193 2720, 2000 Regular Session.

194 (2) The Mississippi Department of Transportation is hereby  
195 authorized to purchase rights-of-way and construct and maintain  
196 roads and highways authorized to be constructed pursuant to this  
197 chapter.

198 SECTION 3. Section 19-5-9, Mississippi Code of 1972, is  
199 amended as follows:[CR2]

200 19-5-9. The construction codes published by a nationally  
201 recognized code group which sets minimum standards and has the  
202 proper provisions to maintain up-to-date amendments are hereby  
203 adopted as minimum standard guides for building, plumbing,  
204 electrical, gas, sanitary, and other related codes in Mississippi.

205 Any county within the State of Mississippi, in the discretion of  
206 the board of supervisors, may adopt building codes, plumbing

207 codes, electrical codes, sanitary codes, or other related codes  
208 dealing with general public health, safety or welfare, or a  
209 combination of the same, within but not exceeding the provisions  
210 of the construction codes published by nationally recognized code  
211 groups, by order or resolution in the manner herein prescribed,  
212 but said codes so adopted shall apply only to the unincorporated  
213 areas of the county. However, such codes shall not apply to the  
214 erection, maintenance, repair or extension of farm buildings or  
215 farm structures, except as may be required under the terms of the  
216 "Flood Disaster Protection Act of 1973" and shall apply to a  
217 master planned community as defined in Section 1 of Senate Bill  
218 No. 2720, 2000 Regular Session, only to the extent allowed in  
219 Section 1 of Senate Bill No. 2720, 2000 Regular Session. The  
220 provisions of this section shall not be construed to authorize the  
221 adoption of any code which applies to the installation, repair or  
222 maintenance of electric wires, pipelines, apparatus, equipment or  
223 devices by or for a utility rendering public utility services,  
224 required by it to be utilized in the rendition of its duly  
225 authorized service to the public. Before any such code shall be  
226 adopted, it shall be either printed or typewritten and shall be  
227 presented in pamphlet form to the board of supervisors at a  
228 regular meeting. The order or resolution adopting such code shall  
229 not set out said code in full, but shall merely identify the same.

230 The vote or passage of the order or resolution shall be the same  
231 as on any other order or resolution. After its adoption, such  
232 code or codes shall be certified to by the president and clerk of  
233 the board of supervisors and shall be filed as a permanent record  
234 in the office of the clerk who shall not be required to transcribe  
235 and record the same in the minute book as other orders and  
236 resolutions.

237 All provisions of this section shall apply to amendments and  
238 revisions of the codes mentioned herein. The provisions hereof  
239 shall be in addition and supplemental to any existing laws

240 authorizing the adoption, amendment or revision of county orders,  
241 resolutions or codes.

242 Any code adopted under the provisions of this section shall  
243 not be in operation or force until sixty (60) days have elapsed  
244 from the adoption of same; however, any code adopted for the  
245 immediate preservation of the public health, safety and general  
246 welfare may be effective from and after its adoption by a  
247 unanimous vote of the members of the board. Within five (5) days  
248 after the adoption or passage of an order or resolution adopting  
249 such code or codes the clerk of the board of supervisors shall  
250 publish in a legal newspaper published in said county the full  
251 text of said order or resolution adopting and approving said code,  
252 and said publication shall be inserted at least three (3) times,  
253 and shall be completed within thirty (30) days after the passage  
254 of said order or resolution.

255 Any person or persons objecting to such code or codes may  
256 object in writing to the provisions of said code or codes within  
257 sixty (60) days after the passage of the order or resolution  
258 approving same, and if the board of supervisors adjudicates that  
259 ten percent (10%) or more of the qualified electors residing in  
260 the affected unincorporated areas of the county have objected in  
261 writing to said code or codes, then in such event said code shall  
262 be inoperative and not in effect unless adopted for the immediate  
263 preservation of the public health, safety and general welfare  
264 until approved by a special election called by the board of  
265 supervisors as other special elections are called and conducted by  
266 the election commissioners of said county as other special  
267 elections are conducted, said special election to be participated  
268 in by all the qualified electors of said county residing in the  
269 unincorporated areas of the county. If the voters approve said  
270 code or codes in said special election it shall be in force and in  
271 operation thereafter until amended or modified as herein provided.  
272 If the majority of the qualified electors voting in said special



273 election vote against said code or codes, then, in such event,  
274 said code or codes shall be void and of no force and effect, and  
275 no other code or codes dealing with such subject shall be adopted  
276 under the provisions of this section until at least two (2) years  
277 thereafter.

278 After any such code shall take effect the board of  
279 supervisors is authorized to employ such directors and other  
280 personnel as the board, in its discretion, deems necessary and to  
281 expend general county funds or any other funds available to the  
282 board to fulfill the purposes of this section.

283 For the purpose of promoting health, safety, morals or the  
284 general welfare of the community, the governing authority of any  
285 municipality, and, with respect to the unincorporated part of any  
286 county, the governing authority of any county, in its discretion,  
287 are empowered to regulate the height, number of stories and size  
288 of building and other structures, the percentage of lot that may  
289 be occupied, the size of the yards, courts and other open spaces,  
290 the density or population, and the location and use of buildings,  
291 structures and land for trade, industry, residence or other  
292 purposes, but no permits shall be required except as may be  
293 required under the terms of the "Flood Disaster Protection Act of  
294 1973" for the erection, maintenance, repair or extension of farm  
295 buildings or farm structures outside the corporate limits of  
296 municipalities.

297 The authority herein granted is cumulative and supplemental  
298 to any other authority granted by law.

299 SECTION 4. This act shall take effect and be in force from  
300 and after its passage.