

*****Adopted*****

AMENDMENT No. 1 PROPOSED TO

Senate Bill NO. 2720

By Representative(s) Committee

25 **Amend by striking all after the enacting clause and inserting**
26 **in lieu thereof the following:**

27
28 SECTION 1. (1) The board of supervisors of any county is
29 authorized to enter into one or more development agreements with
30 the developer or developers of a master planned community in order
31 to authorize, in addition to any other matters to which the board
32 of supervisors may lawfully obligate the county, the master
33 planned community, through a community self-governing entity
34 created by the owners of the property, to administer, manage, and
35 enforce the land use restrictions and covenants, land use
36 regulations, subdivision regulations, building codes and
37 regulations, and any other limitations and restrictions on land
38 and buildings provided in the master plan for the master planned
39 community, in lieu of the real estate and property owners within
40 the master planned community being subject to the county
41 ordinances and regulations pertaining to buildings, subdivisions,
42 zoning, the county's comprehensive plan, and any other county
43 ordinances and regulations pertaining thereto. Prior to entering
44 into any such development agreement, the board of supervisors
45 shall review the master plan for the master planned community and
46 find that the provisions of the master plan providing for
47 regulations, restrictions, covenants and limitations pertaining to

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

74 (2) As used in this section, the term "master planned
75 community" means a development by one or more developers of real
76 estate consisting of residential, commercial, educational, health
77 care, open space and recreational components that is developed
78 pursuant to a long range, multi-phase master plan providing
79 comprehensive land use planning and staged implementation and
80 development and the master plan must include the following minimum
81 provisions:

82 (a) The real estate described in the master plan must

83 consist of at least three thousand five hundred (3,500) acres of
84 which not less than fifty percent (50%) of the total dwelling
85 units planned for such acreage must be:

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

89 (ii) Dwelling units where at least one (1)
90 occupant:

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

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

95 C. Declares himself to be retired.

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

102 (i) Internal community self-governance by the
103 owners of the property;

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

109 (iii) The establishment of assessments and lien
110 rights to fund amenities, services and maintenance of common
111 areas.

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

116 (3) The master plan for a master planned community shall be
117 subject to modification from time to time by the original owner or

118 owners of the real estate described in the initial master plan,
119 its affiliates, successors or assigns, to meet changing economic
120 and market conditions; provided, however, any such modifications
121 in the master plan which materially change the regulations,
122 restrictions, covenants and limitations pertaining to buildings,
123 subdivisions and land use regulations approved in the development
124 agreement, or which significantly change the overall plan concept,
125 shall be subject to, and shall not take effect until, approved by
126 the board of supervisors of the county.

127 (4) Once a dwelling unit has met the criteria provided for
128 in paragraph (a)(ii) of this section, such dwelling unit shall
129 thereafter be included in the fifty percent (50%) requirement
130 provided for in paragraph (a) of this section, notwithstanding the
131 fact that subsequent thereto the dwelling unit is occupied by
132 persons who do not meet the criteria provided for in paragraph
133 (a)(ii) of this section.

134 (5) As used in this section, the term "dwelling unit" means
135 single-family residences, apartments or other units within a
136 multi-family residence, or a room or apartment in a nursing home
137 or congregate-care facility.

138 SECTION 2. Section 65-4-5, Mississippi Code of 1972, is
139 amended as follows:

140 65-4-5. (1) The following words when used in this chapter
141 shall have the meanings herein ascribed unless the context
142 otherwise clearly requires:

143 (a) "Board" means the Mississippi Department of
144 Economic and Community Development;

145 (b) "Department" means the Mississippi Department of
146 Transportation;

147 (c) "High economic benefit project" means (i) any new
148 investment by a private company with capital investments in land,
149 buildings, depreciable fixed assets and improvements of at least
150 Fifty Million Dollars (\$50,000,000.00); (ii) any new investment of
151 at least Twenty Million Dollars (\$20,000,000.00) by a private
152 company having capital investments in this state in land,

153 buildings, depreciable fixed assets and improvements of at least
154 One Billion Dollars (\$1,000,000,000.00) in the aggregate; (iii)
155 public investment of at least One Hundred Million Dollars
156 (\$100,000,000.00) to take place over a specified period of time
157 and in accordance with a master plan duly adopted by the
158 controlling political subdivision; (iv) any new investments in
159 land, buildings, depreciable fixed assets and improvements by two
160 (2) private companies upon land that is adjacent whenever the new
161 investments of both companies is at least Sixty Million Dollars
162 (\$60,000,000.00) in the aggregate, and such new investments by
163 both private companies provide for the employment of at least five
164 hundred (500) employees in the aggregate; (v) any project which
165 would benefit from the construction of any highway bypass which
166 would aid in economic development and would provide an alternate
167 route to avoid an existing route which underpasses a railroad and
168 which would aid in existing or proposed industry; or (vi) any
169 master planned community * * *;

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

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

184 (f) "Master planned community" shall have the same
185 meaning as that term is defined in Section 1 of Senate Bill No.
186 2720, 2000 Regular Session.

187 (2) The Mississippi Department of Transportation is hereby

188 authorized to purchase rights-of-way and construct and maintain
189 roads and highways authorized to be constructed pursuant to this
190 chapter.

191 SECTION 3. Section 19-5-9, Mississippi Code of 1972, is
192 amended as follows:

193 19-5-9. The construction codes published by a nationally
194 recognized code group which sets minimum standards and has the
195 proper provisions to maintain up-to-date amendments are hereby
196 adopted as minimum standard guides for building, plumbing,
197 electrical, gas, sanitary, and other related codes in Mississippi.

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

223 The vote or passage of the order or resolution shall be the same
224 as on any other order or resolution. After its adoption, such
225 code or codes shall be certified to by the president and clerk of
226 the board of supervisors and shall be filed as a permanent record
227 in the office of the clerk who shall not be required to transcribe
228 and record the same in the minute book as other orders and
229 resolutions.

230 All provisions of this section shall apply to amendments and
231 revisions of the codes mentioned herein. The provisions hereof
232 shall be in addition and supplemental to any existing laws
233 authorizing the adoption, amendment or revision of county orders,
234 resolutions or codes.

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

248 Any person or persons objecting to such code or codes may
249 object in writing to the provisions of said code or codes within
250 sixty (60) days after the passage of the order or resolution
251 approving same, and if the board of supervisors adjudicates that
252 ten percent (10%) or more of the qualified electors residing in
253 the affected unincorporated areas of the county have objected in
254 writing to said code or codes, then in such event said code shall
255 be inoperative and not in effect unless adopted for the immediate
256 preservation of the public health, safety and general welfare
257 until approved by a special election called by the board of

258 supervisors as other special elections are called and conducted by
259 the election commissioners of said county as other special
260 elections are conducted, said special election to be participated
261 in by all the qualified electors of said county residing in the
262 unincorporated areas of the county. If the voters approve said
263 code or codes in said special election it shall be in force and in
264 operation thereafter until amended or modified as herein provided.

265 If the majority of the qualified electors voting in said special
266 election vote against said code or codes, then, in such event,
267 said code or codes shall be void and of no force and effect, and
268 no other code or codes dealing with such subject shall be adopted
269 under the provisions of this section until at least two (2) years
270 thereafter.

271 After any such code shall take effect the board of
272 supervisors is authorized to employ such directors and other
273 personnel as the board, in its discretion, deems necessary and to
274 expend general county funds or any other funds available to the
275 board to fulfill the purposes of this section.

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

290 The authority herein granted is cumulative and supplemental
291 to any other authority granted by law.

292 SECTION 4. This act shall take effect and be in force from

293 and after its passage.