

By: Representative Criswell

To: Judiciary A

HOUSE BILL NO. 1268

1 AN ACT TO AMEND SECTION 11-51-75, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE STANDARD OF CONSTRUCTION TO BE USED IN MAKING AN
3 APPEAL FROM JUDGMENTS BY COUNTY OR MUNICIPAL AUTHORITIES RELATING
4 TO THE CONSTITUTIONALITY OF THE ISSUE ON APPEAL; AND FOR RELATED
5 PURPOSES.

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

7 **SECTION 1.** Section 11-51-75, Mississippi Code of 1972, is
8 amended as follows:

9 11-51-75. Any person aggrieved by a judgment or decision of
10 the board of supervisors of a county, or the governing authority
11 of a municipality, may appeal the judgment or decision to the
12 circuit court of the county in which the board of supervisors is
13 the governing body or in which the municipality is located. A
14 written notice of appeal to the circuit court must be filed with
15 the circuit clerk within ten (10) days from the date at which
16 session of the board of supervisors or the governing authority of
17 the municipality rendered the judgment or decision. Upon filing,
18 a copy of the notice of appeal must be delivered to the president
19 of the board of supervisors or to the mayor or city clerk of the



20 municipality and, if applicable, to any party who was a petitioner
21 before the board of supervisors or the governing authority of the
22 municipality.

23 (a) The notice of appeal filed in the circuit court
24 with the circuit clerk shall contain the following:

25 (i) The name of the county board of supervisors or
26 the name of the municipality as the appellee. If applicable, any
27 party who was a petitioner before the board of supervisors or the
28 governing authority of the municipality shall be named as an
29 appellee.

30 (ii) A succinct statement of the reasons, or
31 grounds, for the appeal.

32 (iii) A written description or designation of
33 record which includes all matters that the appellant desires to be
34 made part of the record.

35 (iv) Appellant must also deliver a copy of the
36 notice of appeal and a written designation of the record, along
37 with a list of all documents or transcripts in appellant's
38 possession, to the clerk of the board of supervisors or to the
39 clerk of the municipality.

40 (b) An appellee has ten (10) days from the filing of
41 the notice of appeal with the circuit clerk to designate any other
42 items or matters that appellee believes should be included in the
43 designated record.



44 (c) The clerk of the board of supervisors or the
45 municipal clerk must assemble a complete record of the proceedings
46 to include all writings, matters, items, documents, plats, maps
47 and transcripts of proceedings that were part of the record and
48 deliver the complete record to the circuit clerk within thirty
49 (30) days after the filing of the notice of appeal with the
50 circuit clerk. The clerk of the board of supervisors or the
51 municipal clerk shall certify that the record is accurate and
52 complete and contains all writings, matters, items, documents,
53 plats, maps and transcripts of proceedings designated by appellant
54 and appellee in their designations of record.

55 (d) The circuit court, as an appellate court, either in
56 term time or in vacation, shall hear and determine the same on the
57 record and shall affirm or reverse the judgment. The circuit
58 court shall enter an order establishing a briefing schedule and a
59 hearing date, if any, for the parties to appear and present oral
60 argument. If the judgment is reversed, the circuit court shall
61 render such judgment or decision as the board of supervisors or
62 the governing authority of the municipality ought to have
63 rendered, and certify the same to the board of supervisors or the
64 governing authority of the municipality. Costs shall be awarded
65 as in other cases.

66 (e) No appeal to the circuit court shall be taken from
67 any order of the board of supervisors or the governing authority
68 of the municipality which authorizes the issuance or sale of



69 bonds, but all objections to any matters relating to the issuance
70 and sale of bonds shall be adjudicated and determined by the
71 chancery court, in accordance with the provisions of Sections
72 31-13-5 through 31-13-11. And all rights of the parties shall be
73 preserved and not foreclosed, for the hearing before the chancery
74 court, or the chancellor in vacation.

75 (f) Nothing in this section shall be construed to
76 affect, interpret, or in any way address the following:

77 (i) The original jurisdiction of any court,
78 including jurisdiction over proceedings for judicial review of the
79 constitutionality of any county or municipal ordinance; or

80 (ii) The right of any individual, organization or
81 association, at any time, to bring an action to restrain or enjoin
82 the enforcement, operation or execution of any county or municipal
83 ordinance by restraining or enjoining the action of any officer of
84 any county or municipality, in which a claim is asserted that the
85 ordinance under which the action sought to be restrained or
86 enjoined is unconstitutional, or for declaratory relief in which a
87 declaration or adjudication of the unconstitutionality of any
88 county or municipal ordinance is among the relief requested.

89 **SECTION 2.** This act shall take effect and be in force from
90 and after July 1, 2019.

