

By: Senator(s) Suber

To: Public Property

SENATE BILL NO. 2708

1 AN ACT TO AUTHORIZE THE DEPARTMENT OF FINANCE AND
 2 ADMINISTRATION, ACTING ON BEHALF OF THE MISSISSIPPI DEPARTMENT OF
 3 PUBLIC SAFETY, TO SELL AND CONVEY OR LEASE A PARCEL OF CERTAIN
 4 STATE-OWNED REAL PROPERTY AND ANY IMPROVEMENTS THEREON UNDER THE
 5 POSSESSION AND CONTROL OF THE DEPARTMENT OF PUBLIC SAFETY, LOCATED
 6 IN THE CITY OF JACKSON, HINDS COUNTY, MISSISSIPPI; TO STIPULATE
 7 THE CONDITIONS UNDER WHICH THE PROPERTY MAY BE SOLD OR LEASED TO
 8 PROMOTE THE HIGHEST AND BEST USE FOR THE STATE; TO PROVIDE THAT
 9 THE SELLING OR LEASING ENTITY SHALL ENTERTAIN REQUESTS FOR
 10 PROPOSALS FOR THE SALE AND PURCHASE OR LEASE OF THE PROPERTY AND
 11 IMPROVEMENTS AND ACCEPT THE PROPOSAL THAT PROVIDES THE HIGHEST AND
 12 BEST VALUE FOR THE STATE WHICH SHALL INCLUDE, BUT NOT BE LIMITED
 13 TO, THE PRICE, USE AND OTHER PROPOSAL CONDITIONS AS REQUIRED BY
 14 THE STATE; TO PROVIDE THAT THE STATE SHALL RETAIN ALL MINERAL
 15 RIGHTS TO THE REAL PROPERTY SOLD OR LEASED UNDER THIS ACT; TO
 16 BRING FORWARD SECTIONS 17-1-3, 17-1-5, 17-1-7, 17-1-11, 17-1-21
 17 AND 17-1-23, MISSISSIPPI CODE OF 1972, FOR PURPOSES OF POSSIBLE
 18 AMENDMENT; AND FOR RELATED PURPOSES.

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

20 **SECTION 1.** (1) The Department of Finance and
 21 Administration, acting on behalf of the Mississippi Department of
 22 Public Safety, is authorized to sell and convey or lease parcels
 23 of certain state-owned real property and any improvements thereon
 24 under the possession and control of the Department of Public
 25 Safety, located in the city of Jackson, Hinds County, Mississippi,
 26 and more particularly described as follows:



27 BEG_W/S_HWY_51_1728.43_FT_S_OF_LAKELAND_DR____
28 THENCE_W_600_FT_S_785.51_FT_E/LY_NE/LY_&_____
29 NW/LY_ALONG_HWY_TO_BEG_IN_S_1/2_SE_1/4_SEC_26
30 T6_R1E_____

31 (2) (a) If sold, the real property described in subsection
32 (1) of this section and any improvements thereon shall be sold for
33 not less than the current fair market value as determined by the
34 averaging of at least two (2) appraisals by qualified appraisers,
35 one (1) of whom shall be selected by the Department of Finance and
36 Administration, and both of whom shall be certified and licensed
37 by the Mississippi Real Estate Appraiser Licensing and
38 Certification Board.

39 (b) If the real property described in subsection (1) of
40 this section is leased, the Department of Finance and
41 Administration is authorized to negotiate all aspects of any lease
42 and any terms and ancillary agreements pertaining to any lease as
43 may be reasonably necessary to effectuate the intent and purposes
44 of this section and to ensure a fair and equitable return to the
45 state.

46 (3) The property described in subsection (1) of this section
47 shall be sold or leased to result in the highest and best use of
48 the property to revitalize the surrounding neighborhoods with
49 class A apartment homes, parking and landscaping and to ensure
50 that the property is used in a manner that will not interfere with
51 the operation of adjacent agencies and institutions.



52 Additionally, businesses may open locations on the property
53 alongside residential areas.

54 (4) The Department of Finance and Administration shall issue
55 a publicly advertised request seeking proposals to either sell or
56 lease the property described in subsection (1) of this section.

57 (5) The State of Mississippi shall retain all mineral rights
58 to the real property sold or leased under this section.

59 (6) The Department of Finance and Administration may recover
60 its costs associated with the transaction authorized by this
61 section from the proceeds of the sale or lease of the real
62 property described in subsection (1) of this section and the net
63 proceeds of the sale or lease shall be deposited into the State of
64 Mississippi's General Fund in the State Treasury.

65 (7) The Department of Finance and Administration may correct
66 any discrepancies in any legal description provided in this
67 section.

68 **SECTION 2.** Section 17-1-3, Mississippi Code of 1972, is
69 brought forward as follows:

70 17-1-3. (1) Except as otherwise provided in Section
71 17-1-21(2) and in Article VII of the Chickasaw Trail Economic
72 Development Compact described in Section 57-36-1, for the purpose
73 of promoting health, safety, morals, or the general welfare of the
74 community, the governing authority of any municipality, and, with
75 respect to the unincorporated part of any county, the governing
76 authority of any county, in its discretion, are empowered to



77 regulate the height, number of stories and size of building and
78 other structures, the percentage of lot that may be occupied, the
79 size of the yards, courts and other open spaces, the density of
80 population, and the location and use of buildings, structures and
81 land for trade, industry, residence or other purposes, but no
82 permits shall be required with reference to land used for
83 agricultural purposes, including forestry activities as defined in
84 Section 95-3-29(2)(b), or for the erection, maintenance, repair or
85 extension of farm buildings or farm structures, including forestry
86 buildings and structures, outside the corporate limits of
87 municipalities. The governing authority of each county and
88 municipality may create playgrounds and public parks, and for
89 these purposes, each of such governing authorities shall possess
90 the power, where requisite, of eminent domain and the right to
91 apply public money thereto, and may issue bonds therefor as
92 otherwise permitted by law.

93 (2) Local land use regulation ordinances involving the
94 placement, screening, or height of amateur radio antenna
95 structures must reasonably accommodate amateur communications and
96 must constitute the minimum practicable regulation to accomplish
97 local authorities' legitimate purposes of addressing health,
98 safety, welfare and aesthetic considerations. Judgments as to the
99 types of reasonable accommodation to be made and the minimum
100 practicable regulation necessary to address these purposes will be
101 determined by local governing authorities within the parameters of



102 the law. This legislation supports the amateur radio service in
103 preparing for and providing emergency communications for the State
104 of Mississippi and local emergency management agencies.

105 **SECTION 3.** Section 17-1-5, Mississippi Code of 1972, is
106 brought forward as follows:

107 17-1-5. Except as otherwise provided in Article VII of the
108 Chickasaw Trail Economic Development Compact described in Section
109 57-36-1, in the exercise and enforcement of the powers conferred
110 by Sections 17-1-1 through 17-1-27, inclusive, each county and
111 each municipality within the county may act independently one from
112 the other, or, in the exercise of discretion, the governing
113 authority of any county and the governing authority of any
114 municipality located within the county may act jointly in order to
115 attain uniformity and consistency in the zoning regulations for
116 the areas to be affected.

117 **SECTION 4.** Section 17-1-7, Mississippi Code of 1972, is
118 brought forward as follows:

119 17-1-7. Except as otherwise provided in Article VII of the
120 Chickasaw Trail Economic Development Compact described in Section
121 57-36-1, for the purposes set forth in Section 17-1-3, the
122 governing authority of each municipality and county may divide the
123 municipality or county into zones of such number, shape and area
124 as may be deemed best suited to carry out the purposes of Sections
125 17-1-1 through 17-1-27, inclusive. Within the zones created, the
126 governing authority of each municipality and county may, subject



127 to the restrictions with respect to agricultural lands and farm
128 buildings or structures as set out in Section 17-1-3, regulate and
129 restrict the erection, construction, reconstruction, alteration,
130 repair or use of buildings, structures or land. All regulations
131 shall be uniform for each class or kind of buildings throughout
132 each zone, but regulations in one zone may differ from those in
133 other zones.

134 **SECTION 5.** Section 17-1-11, Mississippi Code of 1972, is
135 brought forward as follows:

136 17-1-11. (1) (a) The governing authority of each
137 municipality and county may provide for the preparation, adoption,
138 amendment, extension and carrying out of a comprehensive plan for
139 the purpose of bringing about coordinated physical development in
140 accordance with present and future needs and may create,
141 independently or jointly, a local planning commission with
142 authority to prepare and propose (* * *i) a comprehensive plan of
143 physical development of the municipality or county; (* * *ii) a
144 proposed zoning ordinance and map; (* * *iii) regulations
145 governing subdivisions of land; (* * *iv) building or set back
146 lines on streets, roads and highways; and (* * *v)
147 recommendations to the governing authorities of each municipality
148 or county with regard to the enforcement of and amendments to the
149 comprehensive plan, zoning ordinance, subdivision regulations and
150 capital improvements program. The governing authority of each
151 municipality and county may, in its discretion, pay to each member



152 of a planning commission a per diem in an amount as determined by
153 such governing authority for each day, or portion thereof, spent
154 in the performance of his duties; however, no member of a planning
155 commission may be paid more than One Hundred Twenty Dollars
156 (\$120.00) in the aggregate per month.

157 (b) The definition of "comprehensive plan" set forth in
158 paragraph (c) of Section 17-1-1 shall not be construed to affect,
159 or to require the amendment of, any plan adopted by a county or
160 municipality prior to July 1, 1988, which plan does not
161 specifically conform to the minimum elements of a comprehensive
162 plan required in such definition.

163 (2) The governing authority of each municipality and county
164 may adopt, amend and enforce the comprehensive plan, zoning
165 ordinance, subdivision regulations and capital improvements
166 program as recommended by the local planning commission after a
167 public hearing thereon as provided by Section 17-1-15.

168 (3) In the performance of its duties, the local planning
169 commission may cooperate with, contract with, or accept funds from
170 federal, state or local agencies or private individuals or
171 corporations and may expend such funds and carry out such
172 cooperative undertakings and contracts.

173 (4) Any comprehensive plan established under this section
174 shall not contain any provision which conflicts with Article VII
175 of the Chickasaw Trail Economic Development Compact described in
176 Section 57-36-1.



177 **SECTION 6.** Section 17-1-21, Mississippi Code of 1972, is
178 brought forward as follows:

179 17-1-21. (1) Except as otherwise provided in subsection (2)
180 of this section and in Article VII of the Chickasaw Trail Economic
181 Development Compact described in Section 57-36-1, whenever the
182 provisions of any other statute or local ordinance or regulation
183 require a greater width or size of yards, courts or other open
184 spaces, or require a lower height of building, or a less number of
185 stories, or a greater percentage of lot to be left unoccupied, or
186 impose other standards higher than are required by the regulations
187 made under the authority of Sections 17-1-1 through 17-1-27,
188 inclusive, the provisions of such other statute, or local
189 ordinance or regulation shall govern; otherwise the provisions of
190 the regulations made under the authority of Sections 17-1-1
191 through 17-1-27, inclusive, shall be controlling.

192 (2) (a) No governing authority of any municipality or of
193 any county shall adopt or impose any ordinance, regulation, rule
194 or policy that prohibits or restricts agricultural operation,
195 forestry activity or traditional farm practices on agricultural
196 land or land that is otherwise unclassified if the land is used
197 for an agricultural operation, forestry activity or traditional
198 farm practices. Additionally, if the activities being conducted
199 on the land are regulated by the Mississippi Department of
200 Environmental Quality, the Mississippi Department of Agriculture
201 and Commerce or the Mississippi Forestry Commission, the



202 provisions of those agencies' statutes or the regulations
203 promulgated by those agencies shall govern.

204 (b) However, a governing authority of any municipality
205 or of any county may enact or impose ordinances, regulations,
206 rules or policies that prohibit or restrict agricultural, forestry
207 or traditional farm practices or the erection of any building,
208 structure or improvement upon land with such agricultural,
209 forestry or traditional farm practices or lands governed by the
210 Mississippi Department of Environmental Quality, the Mississippi
211 Department of Agriculture and Commerce or the Mississippi Forestry
212 Commission if such land is under Federal Aviation Administration
213 Part 77 restrictions or if such activity, building, structure or
214 improvement creates obstruction to navigable airspace.

215 (c) Paragraph (a) of this subsection shall not affect
216 any ordinance, regulation, rule, or policy that is in effect,
217 adopted, or amended prior to the effective date of this act.
218 Additionally, paragraph (a) of this subsection shall not be
219 construed to affect the discretion of a county or municipal
220 governing authority to reclassify property from one zone to
221 another as otherwise permitted by law.

222 **SECTION 7.** Section 17-1-23, Mississippi Code of 1972, is
223 brought forward as follows:

224 17-1-23. (1) When new subdivisions are laid out, the
225 governing authority of each municipality or county may, before
226 allowing dedication, impose such terms as may be deemed necessary



227 to make the provisions of Sections 17-1-1 through 17-1-27,
228 inclusive, effective, and such governing authorities may receive
229 easements in the land affected whereby such sections may be made
230 effective.

231 (2) The board of supervisors of any county may order that no
232 plat of a subdivision shall be recorded until it has been approved
233 by the board of supervisors, and the board of supervisors shall
234 have power to require the installation of utilities and laying out
235 of streets in subdivisions or to accept performance bonds in lieu
236 thereof; the board of supervisors of any county bordering on the
237 State of Tennessee having a population of more than sixty-seven
238 thousand nine hundred (67,900) but less than seventy thousand
239 (70,000) according to the 1990 federal census and having a land
240 area of more than four hundred seventy (470) square miles but less
241 than five hundred (500) square miles may also, in lieu thereof,
242 require the deposit of monies with the county which shall be
243 placed in a special interest-bearing account in the county
244 treasury, and such board of supervisors at the appropriate time
245 shall spend monies from such account solely for the purpose of
246 constructing or improving the roads and other infrastructure
247 within the subdivision with respect to which the deposit or
248 deposits were made.

249 (3) The governing authorities of a municipality may provide
250 that any person desiring to subdivide a tract of land within the
251 corporate limits shall submit a map and plat of such subdivision,



252 and a correct abstract of title of the land platted, to said
253 governing authorities, to be approved by them before the same
254 shall be filed for record in the land records of the county; and
255 where the municipality has adopted an ordinance so providing, no
256 such map or plat of any such subdivision shall be recorded by the
257 chancery clerk unless same has been approved by said governing
258 authorities. In all cases where a map or plat of the subdivision
259 is submitted to the governing authorities of a municipality, and
260 is by them approved, all streets, roads, alleys and other public
261 ways set forth and shown on said map or plat shall be thereby
262 dedicated to the public use, and shall not be used otherwise
263 unless and until said map or plat is vacated in the manner
264 provided by law, notwithstanding that said streets, roads, alleys
265 or other public ways have not been actually opened for the use of
266 the public. If any easement dedicated pursuant to the provisions
267 of this section for a street, road, alley or other public purpose
268 is determined to be not needed for the public purpose, the
269 easement may be declared abandoned, and ownership of the fee
270 underlying the easement shall revert, regardless of the date of
271 dedication, to the adjoining property owner or owners at the time
272 of abandonment. Ownership of such easement shall extend to the
273 centerline of said abandoned street, road or public way. Such
274 abandonment and reversion shall not affect any private easements
275 which might exist.



276 (4) If the owner of any land which shall have been laid off,
277 mapped or platted as a city, town or village, or addition thereto,
278 or subdivision thereof, or other platted area, whether inside or
279 outside a municipality, desires to alter or vacate such map or
280 plat, or any part thereof, he may petition the board of
281 supervisors of the county or the governing authorities of the
282 municipality for relief in the premises, setting forth the
283 particular circumstances of the case and giving an accurate
284 description of the property, the map or plat of which is to be
285 vacated or altered and the names of the persons to be adversely
286 affected thereby or directly interested therein. However, before
287 taking such action, the parties named shall be made aware of the
288 action and must agree in writing to the vacation or alteration.
289 Failure to gain approval from the parties named shall prohibit the
290 board of supervisors or governing authorities from altering or
291 vacating the map or plat, or any part thereof. Any alterations of
292 a plat or map must be recorded in the appropriate location and a
293 note shall be placed on the original plat denoting the altered or
294 revised plat. No land shall be subdivided nor shall the map or
295 plat of any land be altered or vacated in violation of any duly
296 recorded covenant running with the land. Any municipality which
297 shall approve such a vacation or alteration pursuant to this
298 section shall be exempt from the sale of surplus real property
299 provisions as set forth in Section 21-17-1.



300 (5) Subdivision regulation under this section shall not
301 conflict with Article VII of the Chickasaw Trail Economic
302 Development Compact described in Section 57-36-1.

303 **SECTION 8.** This act shall take effect and be in force from
304 and after its passage.

