

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
89th General Assembly
Regular Session, 2013

As Engrossed: H4/5/13

A Bill

HOUSE BILL 2078

By: Representative Bell

For An Act To Be Entitled

AN ACT TO AMEND ARKANSAS LAW CONCERNING THE CAPITOL
ZONING DISTRICT COMMISSION; TO DECLARE AN EMERGENCY;
AND FOR OTHER PURPOSES.

Subtitle

TO AMEND ARKANSAS LAW CONCERNING THE
CAPITOL ZONING DISTRICT COMMISSION; AND
TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. NOT TO BE CODIFIED. The Capitol Zoning District Commission is abolished on July 1, 2013.

*SECTION 2. Arkansas Code § 22-2-120 is amended to read as follows:
22-2-120. Exemption from statutes concerning Capitol Zoning District.
~~(a) The construction, acquisition, management, maintenance, or
operation of capital improvements and public buildings by the Arkansas
Building Authority under this chapter is declared to be exempt from the
operation and implementation of the provisions of §§ 22-3-301 – 22-3-311.~~*

*~~(b) The Arkansas Building Authority Council shall endeavor to
cooperate with the Capitol Zoning District Commission so as to establish
coordinated physical development in the State Capitol area and to promote the
uniform and appropriate regulation and development of the State Capitol area.~~*

*SECTION 3. Arkansas Code § 22-3-215(c)(2), concerning a Vietnam
Veteran's Monument, is amended to read as follows:*



(2) *The committee shall meet at such times as it shall determine to be necessary to select a design and site for the Vietnam Veterans' Monument to be erected and maintained on the State Capitol grounds, which design and site shall be subject to the approval of the ~~Capitol Zoning District Commission created by § 22-3-303 or its successor~~ Secretary of State.*

SECTION 4. *Arkansas Code § 22-3-216(c)(2), concerning a Law Enforcement Officers' Memorial, is amended to read as follows:*

(2) *The committee shall meet at such times as it shall determine to be necessary to select a design and site for the memorial to be erected and maintained on the State Capitol grounds. The design and site shall be subject to the approval of the ~~Capitol Zoning District Commission created by § 22-3-303 or its successor~~ Secretary of State.*

SECTION 5. *Arkansas Code § 22-3-219(c)(3), concerning a monument to honor veterans of twentieth-century wars, is amended to read as follows:*

(3) *The design and site selection shall be subject to the approval of the ~~Capitol Zoning District Commission created under § 22-3-301 et seq.~~ Secretary of State.*

SECTION 6. *Arkansas Code § 22-3-303 is repealed.*

~~22-3-303. Capitol Zoning District Commission.~~

~~(a) There is created and established at the seat of government a commission to be known as the Capitol Zoning District Commission.~~

~~(b) The commission shall have nine (9) members, as follows:~~

~~(1) The Governor, or his or her designee, who shall be chair;~~

~~(2) The Secretary of State, or his or her designee;~~

~~(3) Four (4) resident electors of this state, to be designated by the Governor and who shall serve three-year terms, one (1) of whom shall be a black;~~

~~(4) The Director of the City Planning staff of the City of Little Rock, or his or her designee;~~

~~(5) One (1) resident elector of this state who shall be a resident of and an owner of property within the Governor's Mansion area of the Capitol Zoning District, to be designated by the Governor, and who shall~~

~~serve a three year term; and~~

~~(6) One (1) resident elector of this state who shall be an owner of property or the designee of an owner of property within the State Capitol area of the Capitol Zoning District, to be designated by the Governor, and who shall serve a three year term.~~

~~(c) The Director of the Capitol Zoning District Commission shall serve as the disbursing officer for the commission.~~

~~(d) Members of the commission shall receive no pay for their services, but may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq.~~

~~(e)(1) The commission is authorized to employ a director and such other staff as the commission deems appropriate and within legislative appropriation.~~

~~(2) The commission shall have the authority to enter into contracts of any lawful nature, and to do any and all acts necessary to effect the purposes of this subchapter.~~

SECTION 7. Arkansas Code § 22-3-304 is amended to read as follows:

22-3-304. Zoning authority ~~of Capitol Zoning District Commission.~~

The Capitol Zoning District Commission City of Little Rock is authorized broad scope in its zoning authority to include, but not be limited to, the following:

(1) Restrictions on the height, number of stories, and size of buildings;

(2) Percentage of lots that may be occupied;

(3) Use of structures and land;

(4) Population density;

(5) Amount of open space;

(6) Parking areas; ~~and~~

(7) Restriction of noisy and polluting processes or those endangering the health and safety of the citizens of the ~~zoning district~~ Capitol Zoning District; and

(8)(A) Except as provided in subdivision (8)(B) of this section, restrictions on the height of front yard fences in the district.

(B) The city shall neither enact nor enforce an ordinance or guideline that restricts the construction of front yard fences in the

district to a maximum height of less than forty-eight inches (48").

SECTION 8. Arkansas Code § 22-3-305 is amended to read as follows:

22-3-305. Master plan.

(a) ~~The Capitol Zoning District Commission~~ City of Little Rock, using professional and technical assistance as it deems necessary, shall make, adopt, maintain, and revise, from time to time, an official master comprehensive plan for the Capitol Zoning District for the purpose of bringing about coordinated physical development in accordance with the present and future needs of the district.

(b) The master plan will be developed so as to preserve the dignity of the Capitol Building and Governor's Mansion, ensure efficient expenditure of public funds, and promote the safety, convenience, and general well-being of the district's inhabitants and property owners.

(c) The master plan should include, among other things, regulations relative to the location and character of roads and other transportation routes, utility services, parks, buildings, and other construction within the district.

(d) The ~~commission~~ city may adopt the plan in whole or in part and may subsequently amend the adopted plan in whole or in part.

(e) After the adoption of the master comprehensive plan, the ~~commission~~ city shall file a copy with the office of the Secretary of State for the inspection of the public.

SECTION 9. Arkansas Code § 22-3-306 is amended to read as follows:

22-3-306. Authority ~~of Capitol Zoning District Commission~~ over property within Capitol Zoning District – Permits.

(a) After the adoption of the comprehensive master zoning plan, the ~~Capitol Zoning District Commission~~ City of Little Rock shall have exclusive authority over the zoning and regulation of the utilization of all property within the Capitol Zoning District, and no planning or zoning authority or jurisdiction of any subdivision of the state shall have any zoning or control authority except as agreed upon by the ~~commission~~ city.

(b)(1) After the adoption by the ~~commission~~ city of the comprehensive master zoning plan, the ~~commission~~ city shall have the authority to approve or disapprove the location and design of any improvements to be placed upon

any land within the district, and no improvements shall be placed upon any land within the district unless the design and proposed location shall be approved by the ~~commission~~ city.

(2) Such improvements shall include, but not be limited to, buildings, including additions and alterations, parking lots and facilities, and all other construction whatsoever, except that the word "improvements" shall not include existing streets, alleys, or utilities and shall not include maintenance, service, or improvement thereof.

(c) After the adoption by the ~~commission~~ city of the comprehensive master zoning plan, no improvement of any nature nor any change of land use shall commence within the district without a permit issued by the ~~commission~~ city.

(d) Within the district, a legally existing use, building, or structure that exists at the time of the adoption of the plans and regulations authorized by this subchapter, but not in conformity with such plans and regulations, may be continued but shall not be extended or structurally altered without the approval of the ~~commission~~ city.

SECTION 10. Arkansas Code § 22-3-307 is amended to read as follows:

22-3-307. Adoption of ~~rules and regulations~~ ordinances by ~~Capitol Zoning District Commission~~.

~~(a) The Capitol Zoning District Commission~~ City of Little Rock shall have the power and authority to prescribe may adopt such rules and regulations ordinances concerning procedure before it and concerning the exercise of its functions and duties under this subchapter as it shall deem proper.

~~(b) Prior to the adoption of any zoning regulations or amendments thereto, the commission shall hold a public hearing thereon pursuant to the regulations of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.~~

SECTION 11. Arkansas Code § 22-3-308 is repealed.

~~22-3-308. Coordination by Capitol Zoning District Commission with other agencies.~~

~~(a) The Capitol Zoning District Commission is authorized and encouraged to coordinate the comprehensive master zoning plan, to the greatest extent it deems practical, with city, county, and other area~~

~~planning agencies.~~

~~(b)(1) Subject to the requirements of due process and consistent with any applicable federal restrictions and regulations as in effect on January 1, 2011, the commission may enter into agreements with the City of Little Rock providing for mutual cooperation and joint regulation within the Capitol Zoning District with respect to planning and zoning; permission to build upon or otherwise use land; the enforcement through stop work orders, citations, fines, and inspection to ensure compliance of building, safety, zoning, and health codes; and other matters within the jurisdiction of the commission.~~

~~(2) An agreement under subdivision (b)(1) of this section between the City of Little Rock and the commission may not cede the commission's final authority and responsibility over the matters entrusted to it by law.~~

SECTION 12. Arkansas Code § 22-3-309 is repealed.

~~22-3-309. Capitol Zoning District Commission's power to institute and defend legal actions.~~

~~(a) The Capitol Zoning District Commission shall constitute a body corporate for purposes of instituting and defending litigation to enforce its rules, regulations, decisions, and orders; and it may, in its name, institute or defend actions in its own behalf, or in behalf of the owner or owners of any property within the district, to enjoin any breach or violation thereof.~~

~~(b) No bond shall be required of the commission in any action for the issuance of any temporary or permanent order, or on an appeal.~~

~~(c) The Attorney General shall be the legal adviser to the commission in the same capacity as he or she is to other boards and commissions.~~

SECTION 13. Arkansas Code § 22-3-310 is amended to read as follows:

22-3-310. Appeal of ~~Capitol Zoning District Commission~~ action.

(a) Any person aggrieved by any ~~rule, regulation~~ ordinance, decision, or order of the ~~Capitol Zoning District Commission~~ City of Little Rock under this subchapter may appeal the action to the Circuit Court of Pulaski County.

(b) The filing of an appeal shall in no respect suspend the operation of any ~~rule, regulation~~ ordinance, decision, or order, nor shall the circuit court order any suspension without a full hearing.

SECTION 14. Arkansas Code § 22-3-311 is amended to read as follows:

22-3-311. Report ~~by Capitol Zoning District Commission~~ City of Little Rock to Legislative Council.

The ~~Capitol Zoning District Commission~~ City of Little Rock shall submit a written summary of its actions and progress to the Legislative Council as requested by that council.

SECTION 15. Arkansas Code § 22-3-312 is amended to read as follows:

22-3-312. Sale of property within Capitol Zoning District – Notice.

(a) A person who sells real property within the Capitol Zoning District shall notify the purchaser that the real property is within the district and shall provide the purchaser with a summary of the ~~Capitol Zoning District Commission's~~ City of Little Rock's restrictions on property in the district and the duties and responsibilities of owners of property in the district.

(b) The summary required by this section shall be prepared by the ~~commission~~ city.

SECTION 16. Arkansas Code § 22-3-313 is repealed.

~~22-3-313. Capitol Zoning District Commission – Powers.~~

~~(a) Effective July 1, 1997, the Director of the Department of Finance and Administration, as Chief Fiscal Officer of the State, shall transfer all authority and responsibility of the Arkansas Building Authority and the Director of the Arkansas Building Authority with respect to the Capitol Zoning District Commission to the Capitol Zoning District Commission and to the Director of the Capitol Zoning District Commission.~~

~~(b) The commission and its staff shall be a separate and distinct agency of government.~~

SECTION 17. Arkansas Code § 22-3-504(b)(3), concerning requests to the Capitol Arts and Grounds Commission, is amended to read as follows:

(3) Sufficient information to demonstrate consistency of the project with zoning regulations of the ~~Capitol Zoning District Commission~~ City of Little Rock pertaining to the Capitol Zoning District.

SECTION 18. Arkansas Code § 22-3-1506 is amended to read as follows:

22-3-1506. Exceptions.

The provisions of § 22-3-301 et seq., pertaining to the Capitol Zoning District ~~Commission~~, § 22-3-401 et seq., pertaining to the Capitol Parking Control Committee, § 22-3-501 et seq., pertaining to the Capitol Arts and Grounds Commission, and § 22-3-202, pertaining to the Secretary of State, or any other provision of law inconsistent with the intent of this subchapter shall not be applicable to the Arkansas Building Authority in connection with the parking facilities contemplated by this subchapter, and no filings, consents, or approvals shall be required from any agency of the state prior to the construction, renovation, or repair of parking facilities or concerning the operations thereof.

SECTION 19. Arkansas Code § 25-16-903(13), concerning stipends for members of certain boards and commissions, is repealed.

~~(13) Capitol Zoning District Commission;~~

SECTION 20. NOT TO BE CODIFIED. (a) Within ninety (90) days of the effective date of this act, the City of Little Rock shall adopt in an appropriate manner the master plan and rules of the Capitol Zoning District Commission as existing on January 1, 2013.

(b) After adopting in an appropriate manner the master plan and rules of the commission under subsection (a) of this section, the city may revise the content of the master plan and rules as necessary.

(c) The master plan and rules of the Capitol Zoning District Commission shall remain in effect until the adoption of the master plan and rules by the City of Little Rock under subsection (a) of this section.

SECTION 21. NOT TO BE CODIFIED. Any appropriations for the benefit of the Capitol Zoning District Commission, including without limitation appropriations for personal services and operating expenses, shall be null and void upon the effective date of this act.

SECTION 22. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that this act abolishes the Capitol Zoning District Commission and that the ideal time for this action is at the beginning of the state's fiscal year. Therefore, an emergency is declared to

exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2013.

/s/Bell