

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

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

As Engrossed: H4/5/13

A Bill

HOUSE BILL 2078

5 By: Representative Bell
6

For An Act To Be Entitled

8 AN ACT TO AMEND ARKANSAS LAW CONCERNING THE CAPITOL
9 ZONING DISTRICT COMMISSION; TO DECLARE AN EMERGENCY;
10 AND FOR OTHER PURPOSES.
11

Subtitle

12
13 TO AMEND ARKANSAS LAW CONCERNING THE
14 CAPITOL ZONING DISTRICT COMMISSION; AND
15 TO DECLARE AN EMERGENCY.
16
17
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. NOT TO BE CODIFIED. The Capitol Zoning District Commission
22 is abolished on July 1, 2013.
23

24 SECTION 2. Arkansas Code § 22-2-120 is amended to read as follows:
25 22-2-120. Exemption from statutes concerning Capitol Zoning District.
26 ~~(a) The construction, acquisition, management, maintenance, or~~
27 ~~operation of capital improvements and public buildings by the Arkansas~~
28 ~~Building Authority under this chapter is declared to be exempt from the~~
29 ~~operation and implementation of the provisions of §§ 22-3-301 – 22-3-311.~~

30 ~~(b) The Arkansas Building Authority Council shall endeavor to~~
31 ~~cooperate with the Capitol Zoning District Commission so as to establish~~
32 ~~coordinated physical development in the State Capitol area and to promote the~~
33 ~~uniform and appropriate regulation and development of the State Capitol area.~~
34

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



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

7
 8 SECTION 4. *Arkansas Code § 22-3-216(c)(2), concerning a Law*
 9 *Enforcement Officers' Memorial, is amended to read as follows:*

10 (2) *The committee shall meet at such times as it shall determine*
 11 *to be necessary to select a design and site for the memorial to be erected*
 12 *and maintained on the State Capitol grounds. The design and site shall be*
 13 *subject to the approval of the ~~Capitol Zoning District Commission created by~~*
 14 *~~§ 22-3-303 or its successor~~ Secretary of State.*

15
 16 SECTION 5. *Arkansas Code § 22-3-219(c)(3), concerning a monument to*
 17 *honor veterans of twentieth-century wars, is amended to read as follows:*

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

21
 22 SECTION 6. *Arkansas Code § 22-3-303 is repealed.*

23 ~~22-3-303. Capitol Zoning District Commission.~~

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

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

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

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

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

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

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

1 ~~serve a three year term; and~~

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

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

8 ~~(d) Members of the commission shall receive no pay for their services,~~
 9 ~~but may receive expense reimbursement and stipends in accordance with § 25-~~
 10 ~~16-901 et seq.~~

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

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

17
 18 SECTION 7. Arkansas Code § 22-3-304 is amended to read as follows:

19 22-3-304. Zoning authority ~~of Capitol Zoning District Commission.~~

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

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

25 (2) Percentage of lots that may be occupied;

26 (3) Use of structures and land;

27 (4) Population density;

28 (5) Amount of open space;

29 (6) Parking areas; ~~and~~

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

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

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

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

2
3 SECTION 8. Arkansas Code § 22-3-305 is amended to read as follows:
4 22-3-305. Master plan.

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

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

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

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

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

24
25 SECTION 9. Arkansas Code § 22-3-306 is amended to read as follows:

26 22-3-306. Authority ~~of Capitol Zoning District Commission~~ over property
27 within Capitol Zoning District – Permits.

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

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

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

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

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

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

18
 19 SECTION 10. Arkansas Code § 22-3-307 is amended to read as follows:

20 22-3-307. Adoption of ~~rules and regulations~~ ordinances by Capitol
 21 ~~Zoning District Commission~~.

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

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

30
 31 SECTION 11. Arkansas Code § 22-3-308 is repealed.

32 ~~22-3-308. Coordination by Capitol Zoning District Commission with other~~
 33 ~~agencies.~~

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

1 ~~planning agencies.~~

2 ~~(b)(1) Subject to the requirements of due process and consistent with~~
3 ~~any applicable federal restrictions and regulations as in effect on January~~
4 ~~1, 2011, the commission may enter into agreements with the City of Little~~
5 ~~Rock providing for mutual cooperation and joint regulation within the Capitol~~
6 ~~Zoning District with respect to planning and zoning; permission to build upon~~
7 ~~or otherwise use land; the enforcement through stop work orders, citations,~~
8 ~~finances, and inspection to ensure compliance of building, safety, zoning, and~~
9 ~~health codes; and other matters within the jurisdiction of the commission.~~

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

14
15 SECTION 12. Arkansas Code § 22-3-309 is repealed.

16 ~~22-3-309. Capitol Zoning District Commission's power to institute and~~
17 ~~defend legal actions.~~

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

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

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

27
28 SECTION 13. Arkansas Code § 22-3-310 is amended to read as follows:

29 22-3-310. Appeal of ~~Capitol Zoning District Commission~~ action.

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

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

36

1 SECTION 14. Arkansas Code § 22-3-311 is amended to read as follows:
 2 22-3-311. Report ~~by Capitol Zoning District Commission~~ City to
 3 Legislative Council.

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

8 SECTION 15. Arkansas Code § 22-3-312 is amended to read as follows:
 9 22-3-312. Sale of property within Capitol Zoning District – Notice.

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

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

19 SECTION 16. Arkansas Code § 22-3-313 is repealed.
 20 ~~22-3-313. Capitol Zoning District Commission – Powers.~~

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

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

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

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

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

1 22-3-1506. *Exceptions.*

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

12
13 SECTION 19. Arkansas Code § 25-16-903(13), concerning stipends for
14 members of certain boards and commissions, is repealed.

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

16
17 SECTION 20. NOT TO BE CODIFIED. (a) Within ninety (90) days of the
18 effective date of this act, the City of Little Rock shall adopt in an
19 appropriate manner the master plan and rules of the Capitol Zoning District
20 Commission as existing on January 1, 2013.

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

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

27
28 SECTION 21. NOT TO BE CODIFIED. Any appropriations for the benefit of
29 the Capitol Zoning District Commission, including without limitation
30 appropriations for personal services and operating expenses, shall be null
31 and void upon the effective date of this act.

32
33 SECTION 22. EMERGENCY CLAUSE. It is found and determined by the
34 General Assembly of the State of Arkansas that this act abolishes the Capitol
35 Zoning District Commission and that the ideal time for this action is at the
36 beginning of the state's fiscal year. Therefore, an emergency is declared to

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

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/s/Bell