

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2027

Page 1, line 2, after the semicolon insert "to provide for application;"

Page 4, line 22, overstrike "One" and insert immediately thereafter "One-half" and overstrike "1.61 kilometers" and insert immediately thereafter ".80 kilometer"

Page 4, line 23, remove "A city that has exercised its authority under this subdivision has"

Page 4, remove lines 24 and 25

Page 4, line 26, overstrike "Two miles" and insert immediately thereafter "One mile" and overstrike "3.22" and insert immediately thereafter "1.61"

Page 4, line 29, remove "beyond one mile [1.61 kilometers]"

Page 5, line 1, overstrike "Four" and insert immediately thereafter "Two" and overstrike "6.44" and insert immediately thereafter "3.22"

Page 5, line 3, remove "beyond two"

Page 5, line 4, remove "miles [3.22 kilometers]"

Page 5, line 6, replace "The zoning and subdivision regulations of the city govern the entire extraterritorial" with "Joint jurisdiction in the area within the first half of the distance in subsection 1 is jurisdiction in which the city receives applications and issues permits and imposes administrative fees for applications and permits relating to zoning and subdivision regulation. In addition, under this jurisdiction the city adopts, modifies, and enforces any zoning designation or regulation and approves any subdivision plat or regulation. For a decision of the city to be final, the city shall give written notice of the decision of the governing body of the political subdivision that would otherwise have jurisdiction. The governing body may request negotiation as to any decision made by the city under the city's jurisdiction within thirty days of notice. If negotiation is not requested, the decision of the city is final. If the city and governing body of the political subdivision that would otherwise have jurisdiction do not come to an agreement as to the disputed zoning or subdivision regulation within thirty days of the request for negotiation, then the dispute must be submitted to a committee for mediation. The committee must be composed of one member appointed by the governor and two members of the governing body of the city and two members of the governing body of the political subdivision that would otherwise have jurisdiction. The governor's appointee shall arrange and preside over the meeting and act as mediator at the meeting. A meeting may be continued until the dispute has been resolved or until the mediator determines that continued mediation is no longer worthwhile. If the mediation committee is unable to resolve the dispute to the satisfaction of the governing bodies, then if the dispute is between a city and a township and upon acceptance the board of county commissioners for the area in dispute within that county, the dispute must be resolved by that board of county commissioners. However, if the board of county commissioners does not accept the dispute, either party may petition the office of administrative hearings for a hearing by an administrative law judge. In addition, either party may petition the office of administrative hearings for a hearing by an"

administrative law judge before the board of county commissioners holds a hearing on the dispute. If the disputed regulation is in an area that does not have an organized township, the board of county commissioners may not hear the dispute and either party may petition the office of administrative hearings for a hearing by an administrative law judge. The party that does not prevail is liable for the costs of the administrative law judge.

3. Joint jurisdiction in the area outside the area in subsection 2 is jurisdiction in which the political subdivision that would otherwise have zoning and subdivision regulation jurisdiction maintains that jurisdiction and receives applications and issues permits and imposes administrative fees for applications and permits. In addition, under this jurisdiction that political subdivision adopts, modifies, and enforces any zoning designation or regulation and approves any subdivision plat or regulation. For a decision to be final, the political subdivision shall give written notice to the city. The city may request negotiation as to any decision made by the other political subdivision under the political subdivision's jurisdiction within thirty days of notice. If negotiation is not requested, the decision of the other political subdivision is final. If the governing body of the political subdivision that would otherwise have jurisdiction and the city do not come to an agreement as to the disputed zone or subdivision regulation within thirty days of request for negotiation, then the dispute must be submitted to a committee for mediation. The committee must be comprised of one member appointed by the governor and two members of the governing body of the political subdivision that would otherwise have jurisdiction and two members of the governing body of the city. The governor's appointee shall arrange and preside over the meeting and act as mediator at the meeting. A meeting may be continued until the dispute has been resolved or until the mediator determines that continued mediation is no longer worthwhile. If the mediation committee is unable to resolve the dispute to the satisfaction of the governing bodies, then if the dispute is between a city and a township and upon acceptance the board of county commissioners for the area in dispute within that county, the dispute must be resolved by that board of county commissioners. However, if the board of county commissioners does not accept the dispute, either party may petition the office of administrative hearings for a hearing by an administrative law judge. In addition, either party may petition the office of administrative hearings for a hearing by an administrative law judge before the board of county commissioners holds a hearing on the dispute. If the disputed regulation is in an area that does not have an organized township, the board of county commissioners may not hear the dispute and either party may petition the office of administrative hearings for a hearing by an administrative law judge. The party that does not prevail is liable for the costs of the administrative law judge."

Page 5, remove lines 7 through 19

Page 5, line 20, after "4." insert "Upon petition, the office of administrative hearings shall appoint an administrative law judge to resolve the dispute. A hearing by an administrative law judge or the board of county commissioners may not be held until after at least two weeks' written notice has been given to the governing bodies of the jurisdictions involved in the dispute. Each governing body and any person affected by the regulation may appear at the hearing and present evidence on any matter to be determined by the administrative law judge or the board of county commissioners. A decision by the administrative law judge or board of county commissioners is binding on all jurisdictions involved in the dispute and remains effective until the governing bodies in the area of joint jurisdiction agree to change the zoning or subdivision regulation. The administrative law judge or board of county commissioners shall enter an order setting forth what the administrative law judge or board of county commissioners determines to be fair and reasonable terms and conditions. In all cases, the

administrative law judge or board of county commissioners shall set forth in writing a decision, including findings of fact, conclusions of law, and an order. The decision must include the factors upon which the decision is based. Within thirty days after receipt of the administrative law judge's order or the board of county commissioners' decision, any interested party dissatisfied with the decision may appeal to district court under the procedures in section 28-34-01. In making a decision under this subsection, the administrative law judge or board of county commissioners shall consider the following factors:

- a. Whether the proposed change is consistent with a projected growth plan;
- b. Whether the proposed change is substantially related to planning practices consistent with adopted comprehensive plans;
- c. The impact of the proposed change on the present and planned uses of the area under review;
- d. The impact of the proposed change on the health and safety of the residents of the area;
- e. The effect of the change on the liability of the affected jurisdiction to adequately staff and enforce the change;
- f. The economic, physical, and social relationship of the inhabitants, businesses, and industries in the area affected by the change and the effect of the change on other political subdivisions;
- g. The economic impact of the proposed change on the property owners in the area of the proposed change and the economic impact on the city of a decision to deny the change; and
- h. Any other factor determined to be relevant by the administrative law judge.

5."

Page 5, after line 24, insert:

"6. Notwithstanding subsections 1 and 5, if two or more contiguous cities, each having a population of two thousand or more, have boundaries in which the extraterritorial zoning authority of the cities may overlap, each city may extend its zoning regulations to the distance established under subsection 1 for the smaller city involved."

Page 5, line 25, replace "5." with "7."

Page 6, line 3, replace "6." with "8."

Page 6, line 19, replace "7." with "9."

Page 6, line 26, replace "6" with "8"

Page 7, line 21, replace "8." with "10."

Page 7, line 25, replace "9." with "11."

Page 7, line 29, replace "10." with "12."

Page 8, after line 2, insert:

"SECTION 2. APPLICATION. Any extraterritorial zoning regulation in effect before the effective date of this Act which extends beyond the extraterritorial zoning authority provided by this Act is not affected by the reduction in extraterritorial zoning limits under section 1 of this Act."

Page 8, line 3, replace "This" with "Section 1 of this"

Renumber accordingly