

1 HB392
2 148408-1
3 By Representatives Patterson, Lee, Greer, Brown, Sanderford,
4 Nordgren, Jones, Hammon, Clouse, Chesteen, Buttram, Faust,
5 Shiver and Moore (B)
6 RFD: County and Municipal Government
7 First Read: 07-MAR-13

2
3
4
5
6
7
8 SYNOPSIS: This bill would relate to land use
9 development near military installations in close
10 proximity to local governments.

11 This bill would encourage compatible land
12 use, help prevent incompatible urban encroachment
13 upon military installations, and facilitate the
14 continued presence of major military installations
15 within the state by requiring the notification of
16 certain military installations of certain land use
17 changes by local governments, and allowing the
18 military installations an opportunity to comment on
19 the proposed land use changes.

20 This bill would provide for references to
21 military installations in master plans adopted by
22 municipal planning commissions.

23
24 A BILL
25 TO BE ENTITLED
26 AN ACT
27

1 Relating to land use near military reservations; to
2 add a new Chapter 106 to Title 11 of the Code of Alabama 1975,
3 to require local governments to notify certain military
4 installations of certain proposed land use changes; to provide
5 certain military installations an opportunity to comment on
6 certain proposed land use changes; and to amend Section
7 11-52-8, Code of Alabama 1975, to provide for references to
8 military installations in master plans adopted by municipal
9 planning commissions.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. Chapter 106 is added to Title 11 of the
12 Code of Alabama 1975, to read as follows:

13 Chapter 106. Military Land Use Planning.

14 §11-106-1. This chapter shall be known and may be
15 cited as the "Military Land Use Planning Act."

16 §11-106-2. The Legislature finds, determines, and
17 declares that it is desirable for local governments in the
18 state to cooperate with military installations located within
19 the state in order to encourage compatible land use, help
20 prevent incompatible urban encroachment upon military
21 installations, and facilitate the continued presence of major
22 military installations within the state.

23 §11-106-3. As used in this chapter, the following
24 words shall have the following meanings:

25 (1) LOCAL GOVERNMENT. Any county or municipality.

26 (2) MILITARY INSTALLATION. Any base, camp, post,
27 station, airfield, yard, center, or any other land area under

1 the jurisdiction of the United States Department of Defense,
2 including any leased facility, the total acreage of which
3 installation is in excess of 500 acres. The term military
4 installation does not include any facility used primarily for
5 civil works, river projects, or flood control projects.

6 §11-106-4. Each local government whose territorial
7 boundaries are within two miles of all or any portion of a
8 military installation shall timely provide to the military
9 installation's commanding officer and the flying mission
10 commanding officer, or their designees, information relating
11 to proposed zoning changes, and amendments to the local
12 government's comprehensive master plan or land development
13 regulations that, if approved, would significantly affect the
14 intensity, density, or use of any area that is within two
15 miles of the military installation. Nothing in this section is
16 intended to require submission of any information in
17 connection with a site-specific development application under
18 consideration by the local government.

19 §11-106-5. (a) Upon submission of the information
20 required to be provided pursuant to Section 11-106-4, the
21 military installation shall have 30 calendar days within which
22 to review the information and submit comments to the local
23 government on the impact the proposed changes may have on the
24 mission of the military installation. The comments may include
25 any of the following:

26 (1) If the military installation has an airfield,
27 whether the proposed changes will be compatible with the

1 safety and noise standards contained in the air installation
2 compatible use zone recommended by the United States
3 Department of Defense for that airfield.

4 (2) Whether the proposed changes are compatible with
5 the installation environmental noise management program of the
6 military installation.

7 (3) Whether the proposed changes are compatible with
8 any joint land use study for the area within which the changes
9 are to take place, if such study has been completed.

10 (4) Whether the military installation's mission will
11 be adversely affected by the proposed changes.

12 (b) The local government shall review any comments
13 received from the commanding officer or the flying mission
14 commanding officer, or their designees, pursuant to this
15 section when considering approval of any zoning changes,
16 comprehensive plan, amendments to the plan, or its land
17 development regulations.

18 (c) Notwithstanding any other provision of this
19 chapter, nothing in this section shall be construed to require
20 a local government to amend its zoning rules, comprehensive
21 plan, or land use regulations in effect as of the effective
22 date of this chapter in order to satisfy the requirements of
23 this section.

24 (d) No provision of this chapter shall be construed
25 to confer additional powers or expand existing powers of any
26 local government over zoning, planning, or land use.

1 Section 2. Section 11-52-8, Code of Alabama 1975, is
2 amended to read as follows:

3 "§11-52-8.

4 "(a) It shall be the function and duty of the
5 commission to make and adopt a master plan for the physical
6 development of the municipality, including any areas outside
7 of its boundaries which, in the commission's judgment, bear
8 relation to the planning of such municipality.

9 "~~Such~~ The plan, with the accompanying maps, plats,
10 charts, and descriptive matter shall show the commission's
11 recommendations for the development of said territory,
12 including, among other things, the general location, character
13 and extent of streets, viaducts, subways, bridges, waterways,
14 waterfronts, boulevards, parkways, playgrounds, squares,
15 parks, aviation fields and other public ways, grounds and open
16 spaces, the general location of public buildings and other
17 public property, the general location and extent of public
18 utilities and terminals, whether publicly or privately owned
19 or operated, for water, light, sanitation, transportation,
20 communication, power and other purposes, the removal,
21 relocation, widening, narrowing, vacating, abandonment, change
22 of use or extension of any of the foregoing ways, grounds,
23 open spaces, buildings, military installations, property,
24 utilities, or terminals; as well as a zoning plan for the
25 control of the height, area, bulk, location, and use of
26 buildings and premises.

1 "(b) As the work of making the whole master plan
2 progresses, the commission may from time to time adopt and
3 publish a part or parts thereof, any such part to cover one or
4 more major sections or divisions of the municipality or one or
5 more of the aforesaid or other functional matters to be
6 included in the plan.

7 "(c) The commission may from time to time amend,
8 extend, or add to the plan.

9 "(d) For purposes of this section, the term military
10 installation has the same meaning as specified in Section
11 11-106-3."

12 Section 3. All laws or parts of laws which conflict
13 with this act are repealed.

14 Section 4. This act shall become effective
15 immediately following its passage and approval by the
16 Governor, or its otherwise becoming law.