

## Session 113 - (1999-2000)

### S 0799 General Bill, By McConnell

**Summary:** Private Property Rights Protection Act, Courts, Administrative Law Judge, Political Subdivisions, Zoning, Regulations

A BILL TO ENACT THE "SOUTH CAROLINA PRIVATE PROPERTY RIGHTS PROTECTION ACT"; TO AMEND SECTION 1-23-570, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE PROVISIONS OF LAW MAKING THE CHIEF JUDGE OF THE SOUTH CAROLINA ADMINISTRATIVE LAW JUDGE DIVISION RESPONSIBLE FOR THE ADMINISTRATION OF THAT DIVISION, SO AS TO PROVIDE THAT, WHEN MAKING ASSIGNMENTS, THE CHIEF JUDGE SHALL ASSIGN ONE JUDGE OF THE DIVISION TO HEAR CASES IN WHICH A PETITIONER SEEKS A VARIANCE FROM A STATE LAW OR REGULATION DIRECTLY AFFECTING THE USE OF LAND; TO AMEND CHAPTER 23, TITLE 1, RELATING TO STATE AGENCY RULE-MAKING AND ADJUDICATION OF CONTESTED CASES, BY ADDING ARTICLE 7 SO AS TO ENACT PROVISIONS REGULATING VARIANCE FROM STATE LAWS OR REGULATIONS DIRECTLY AFFECTING THE USE OF LAND, INCLUDING PROVISIONS FOR, AMONG OTHER THINGS, EXCLUSIONS, THE POWER TO GRANT VARIANCES, PETITIONS FOR VARIANCE, SCREENING OF PETITIONS, NOTICE, LOCAL GOVERNMENT'S RIGHT TO INTERVENE, PREHEARING PROCEEDINGS, SETTLEMENT PROPOSALS, HEARINGS, RELIEF, JUDICIAL REVIEW, AND REGULATIONS; TO AMEND ARTICLE 3, CHAPTER 29 OF TITLE 6, RELATING TO THE COMPREHENSIVE LOCAL PLANNING PROCESS UNDER THE "SOUTH CAROLINA LOCAL GOVERNMENT COMPREHENSIVE PLANNING ENABLING ACT OF 1994", BY ADDING SECTION 6-29-550 SO AS TO PROVIDE THAT A MUNICIPALITY OR COUNTY MAY ADOPT ORDINANCES DIRECTLY REGULATING LAND USE ONLY AFTER ADOPTING AT LEAST THE LAND USE ELEMENT OF THE COMPREHENSIVE PLAN SET FORTH IN THIS ARTICLE, AND PROVIDE THAT A MUNICIPALITY OR COUNTY WHICH BY ORDINANCE DIRECTLY REGULATES LAND USE SHALL EMPOWER A PERSON OR ENTITY TO GRANT VARIANCES FROM SUCH ORDINANCES IN CASES OF UNNECESSARY HARDSHIP; AND TO AMEND ARTICLE 5, CHAPTER 29 OF TITLE 6, RELATING TO LOCAL PLANNING AND ZONING UNDER THE "SOUTH CAROLINA LOCAL GOVERNMENT COMPREHENSIVE PLANNING ENABLING ACT OF 1994", BY ADDING SECTIONS 6-29-765 SO AS TO REQUIRE A ZONING ADMINISTRATOR TO PROVIDE A LANDOWNER, UNDER CERTAIN CONDITIONS, INFORMATION CONCERNING MECHANISMS AVAILABLE FOR MITIGATING OR MODIFYING THE EFFECTS OF A ZONING OR OTHER ORDINANCE ON A PARTICULAR TRACT OF LAND, AND 6-29-815 SO AS TO PROVIDE THAT IF AN APPEAL FOR VARIANCE FROM THE REQUIREMENTS OF A ZONING ORDINANCE IS DENIED BY THE BOARD OF APPEALS, THE LANDOWNER MAY PETITION THE SOUTH CAROLINA ADMINISTRATIVE LAW JUDGE DIVISION FOR JUDGMENT ON WHETHER THE APPLICATION TO HIS LAND OF THE ZONING OR OTHER ORDINANCE CONSTITUTES A TAKING OF PRIVATE PROPERTY FOR PUBLIC USE WITHOUT JUST COMPENSATION IN VIOLATION OF THE UNITED STATES CONSTITUTION OR THE SOUTH CAROLINA CONSTITUTION, OR BOTH, AND PROVIDE FOR RELATED MATTERS.

05/06/99 Senate Introduced and read first time SJ-4

05/06/99 Senate Referred to Committee on Judiciary SJ-4