

CHAPTER III

POWERS AND DUTIES OF SUPERVISORS

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INTRODUCTION

The fundamental source of power for the board of supervisors is Article 6, § 170 of the *Mississippi Constitution of 1890*, which states:

Each county shall be divided into five districts, a resident freeholder of each district shall be selected, in the manner prescribed by law, and the five so chosen shall constitute the board of supervisors of the county, a majority of whom may transact business. The board of supervisors shall have full jurisdiction over roads, ferries, and bridges, to be exercised in accordance with such regulations as the legislature may prescribe, and perform such other duties as may be required by law; provided, however, that the legislature may have the power to designate certain highways as “state highways,” and place such highways under the control and supervision of the state highway commission, for construction and maintenance. The clerk of the chancery court shall be the clerk of the board of supervisors.

Pursuant to this constitutional provision, the board of supervisors is delegated “full jurisdiction over [county] roads, ferries and bridges, to be exercised in accordance with such regulations as the legislature may prescribe . . .” This responsibility is unquestionably a matter of vital importance to the life of every county. However, it is important to recognize that roads and bridges represent only one of the board’s many concerns. The powers and duties of the board of supervisors has been substantially expanded over the years by legislative action. In today’s counties, the boards of supervisors are delegated a variety of other public duties of equal importance which touch virtually every facet of life. As is the case with the board of directors of a major corporation, the board of supervisors has the task of guiding and establishing policy for the complex multi-million dollar enterprise of county government. As members of the board, supervisors make decisions that directly impact economic development, public health, safety and welfare. Suffice it to say, the office of county supervisor is a position of public trust that has certain attendant duties and obligations. Those that enter into the office should not take these duties and obligations lightly.¹²³

This chapter offers a brief survey of the multitude of powers and duties assigned to county supervisors by Mississippi’s *Constitution* and *Code*. This survey is not intended to provide an exhaustive analysis. Rather, it is designed as an outline of the many areas of public concern and interest that the county supervisor has the ability to impact. For in depth guidance on particular areas of responsibility, the relevant provisions of the *Mississippi Code* and other chapters in this book, which address in detail specific areas of responsibility, should be consulted.

¹²³ *Const.*, § 268.

GENERAL POWERS, JURISDICTION, AND HOME RULE

General Powers and Jurisdiction: The legislature prescribes the details of how the board exercises its constitutional powers and jurisdiction and prescribes what additional powers and duties are delegated. Normally, the “rules and regulations” prescribed by the legislature are found in the *Mississippi Code*. A good starting place to begin exploration of the statutory duties and responsibilities of the board of supervisors is *Code* § 19-3-41. This statute outlines the basic jurisdictional parameters and lists a few of the general powers of the board. *Code* § 19-3-41 affirms that the boards of supervisors shall have within their respective counties full jurisdiction over county roads, ferries and bridges, and jurisdiction over all matters of county police. The statute goes on to make available a variety of miscellaneous powers including jurisdiction over the subject of paupers; authority to regulate or prohibit the sale and use of fireworks; authority to contract with licensed real estate brokers for the purpose of offering county owned real property for sale; authority to contract with a private attorney or private collection agency to assist the county in the recovery of past due fees, fines, delinquent ad valorem tax on personal property and mobile homes; authority to contract with one or more constables of the county to collect certain delinquent criminal fines; and authority to engage in certain functions authorized under federal law in connection with federally funded programs. *Code* § 19-3-41 also imposes on the board of supervisors an affirmative duty to erect and keep in good repair a courthouse and jail. Finally, to help the board meet its obligations, the board of supervisors is empowered to levy such taxes as may be necessary to meet the demands of the respective counties.

Home Rule: In general terms, home rule can be defined as the authority of a county to regulate its own affairs. In Mississippi, home rule powers have been delegated by the legislature rather than the constitution. The significance of this fact is that the home rule provision must be interpreted and applied in the context of other statutes and laws. The county home rule statute¹²⁴ provides in part:

The board of supervisors of any county shall have the power to adopt any orders, resolutions or ordinances with respect to county affairs, property and finances, for which no specific provision has been made by general law and which are not inconsistent with the Mississippi Constitution, the Mississippi Code of 1972, or any other statute or law of the State of Mississippi; and any such board shall likewise have the power to alter, modify and repeal such orders, resolutions or ordinances. Except as otherwise provided in subsection (2) of this section, the powers granted to boards of supervisors in this section are complete without the existence of or reference to any specific authority granted in any other statute or law of the State of Mississippi.

The Mississippi State Supreme Court has not, to date, taken occasion to thoroughly explore the boundaries of county home rule. As such, it is difficult to assess the full extent and nature of this provision. What we do know is that expressly excluded from the legislative grant of home rule is authority to:

- (a) levy taxes other than those authorized by statute or increase the levy of any authorized tax beyond statutorily established limits,
- (b) issue bonds of any kind,
- (c) change the requirements, practices or procedures for county elections or establish any new elected office,
- (d) use any public funds, equipment, supplies or materials for any private purpose,
- (e) regulate common carrier railroads,
- (f) grant

¹²⁴*Code*, § 19-3-40.

any donation, or (g) without prior legislative approval, regulate, directly or indirectly, the amount of rent charged for leasing private residential property in which the county does not have a property interest; unless such actions are specifically authorized by another statute or law of the State of Mississippi.

In other words, it is obvious that the above activities are prohibited unless expressly authorized elsewhere by Mississippi law. Even if the proposed activity is not one of those listed above, two (2) difficult issues must still be addressed. The first issue requires that a determination be made that the proposed activity or exercise of power is in fact a legitimate public function relating to “county affairs, property and finances.” If it is not, then home rule cannot be used as a source of authority for such activity. If the activity is a legitimate public function of the county, there remains the equally difficult issue of determining whether or not there are statutes or laws that prohibit or otherwise control or regulate the proposed exercise of power. If the answer to this question is yes, then home rule still does not provide a source of authority to engage in the proposed activity, although the activity may be a legitimate public concern of the county.

Notwithstanding these difficulties, the county home rule statute does offer a potential source of authority that may, in proper circumstances, empower the board of supervisors with the authority and flexibility to address matters of “county affairs, property and finances” which have not otherwise been addressed by state law.

GENERAL ADMINISTRATION

Meetings: Supervisors must accomplish the business of the county by collective and official action of the board of supervisors. State law requires every county board of supervisors to meet, as a minimum, on the first Monday of each month.¹²⁵ The meeting generally must be held in the courthouse or chancery clerk’s office. Alternatively, the board may meet in any other county-owned building if such building is located within one (1) mile of the courthouse, provided that thirty (30) days prior notice of the change is conspicuously posted and published in the manner prescribed by statute.¹²⁶ In counties having two (2) court districts, the board shall alternate the place of the regular meetings between the two districts.¹²⁷ Meetings of the board may recess from time to time to convene on a date fixed by order of the board entered on its minutes.¹²⁸ In similar fashion, the board may, by order on its minutes, adjourn to meet at any time.¹²⁹ Additionally, special meetings may be called provided that at least five (5) days notice is posted and/or published in accordance with the requirements of statute.¹³⁰ It is very important that the board make certain it complies in all respects with the requirements of the “Open Meetings” law¹³¹ which, among other things, enumerates very strict requirements with regard to giving

¹²⁵ *Code*, § 19-3-11.

¹²⁶ *Ibid.*

¹²⁷ *Code*, § 19-3-13.

¹²⁸ *Code*, § 19-3-17.

¹²⁹ *Code*, § 19-3-19.

¹³⁰ *Ibid.*

¹³¹ *Code*, § 25-41-1 *et seq.*

public notice of meetings and the conduct of executive sessions. Three (3) members on the board of supervisors shall constitute a quorum, and members that fail to attend meetings shall be subject to a fine for unexcused absences.¹³² Minutes must be maintained of each and every meeting and same must be signed and published.¹³³ The requirement to properly maintain minutes cannot be over emphasized. The board can act and bind the county only by lawful action taken by it which must be evidenced by entries on the minutes duly signed as required by law.

Board Attorney: The board is authorized to employ counsel to assist it in the conduct of meetings and to otherwise provide legal counsel with respect to matters of concern and interest to the board and county.¹³⁴

County Property, Offices, Furnishings, and Supplies: The board of supervisors is required by law to properly furnish the courthouse and supply and equip all county offices with necessary office supplies, equipment and furnishings.¹³⁵ To accomplish this objective, express statutory authority is delegated the board of supervisors to purchase real estate for county buildings,¹³⁶ and dispose of surplus real property¹³⁷ and personal property¹³⁸ belonging to the county. The board is authorized to insure county personal and real property against casualty loss¹³⁹ and specifically employ a person to manage and care for county property.¹⁴⁰ An important administrative requirement with respect to county property is the statutory mandate that the board of supervisors establish and maintain an accurate inventory control system.¹⁴¹

Other Administrative Matters: Among the most important administrative responsibilities of the board of supervisors are the adoption of the county budget¹⁴² and approval of expenditures and appropriation of county funds therefore.¹⁴³ These subjects are covered at length in other chapters of this book. Other general administrative duties include approval of the bonds of chancery

¹³²*Code*, § 19-3-23 and *Const.*, § 170.

¹³³*Code*, §§ 19-3-27, 19-3-33 and 25-41-11.

¹³⁴*Code*, § 19-3-47. See also *Code* § 19-3-69.

¹³⁵*Code*, § 19-7-23.

¹³⁶*Code*, § 19-7-1.

¹³⁷*Code*, § 19-7-3.

¹³⁸*Code*, § 19-7-5.

¹³⁹*Code*, § 19-7-7.

¹⁴⁰*Code*, § 19-7-15.

¹⁴¹*Code*, § 31-7-107.

¹⁴²*Code*, § 19-11-1 *et seq.*

¹⁴³*Code*, § 19-3-59.

clerk, circuit clerk, and other county officers and employees,¹⁴⁴ the establishment of vacation and sick leave policies and a system for county-wide personnel administration,¹⁴⁵ contracting for professional services,¹⁴⁶ attending professional educational programs,¹⁴⁷ providing a plan of liability insurance for the county and county employees,¹⁴⁸ providing for workers' compensation coverage for county employees,¹⁴⁹ providing for unemployment compensation benefits for county employees,¹⁵⁰ establishing inmate canteen funds,¹⁵¹ employing a county administrator,¹⁵² providing for the preservation and disposition of county records,¹⁵³ providing equipment for electronic storage of records,¹⁵⁴ and funding abstract of land titles in the chancery clerk's office.¹⁵⁵

Elections: With respect to elections, the board of supervisors has the responsibilities of determining the supervisor district lines,¹⁵⁶ providing for election districts and voting precincts,¹⁵⁷ providing voting machines,¹⁵⁸ making appointments to fill vacancies in county offices, and calling special elections in connection therewith.¹⁵⁹ Chapter XIII of this book discusses the electoral process.

¹⁴⁴*Code*, § 25-1-19.

¹⁴⁵*Code*, §§ 19-3-63 and 19-2-9. For detailed treatment with respect to county-wide personnel administration, see Chapter XI of this book.

¹⁴⁶*Code*, § 19-3-69.

¹⁴⁷*Code*, § 19-3-77.

¹⁴⁸*Code*, § 11-46-17.

¹⁴⁹*Code*, § 71-3-5.

¹⁵⁰*Code*, § 71-5-11.

¹⁵¹*Code*, § 19-3-81.

¹⁵²*Code*, § 19-4-1.

¹⁵³*Code*, § 19-15-1 *et seq.* and § 25-60-1 *et seq.*

¹⁵⁴*Code*, § 19-15-5.

¹⁵⁵*Code*, § 19-15-11.

¹⁵⁶*Code*, § 19-3-1.

¹⁵⁷*Code*, § 23-15-283.

¹⁵⁸*Code*, § 23-15-403.

¹⁵⁹*Code*, § 23-15-839.

LAW ENFORCEMENT AND COURTS

The members of the board of supervisors are conservators of the peace within their respective counties, and possess the powers as such which are conferred on justice court judges.¹⁶⁰ However, the primary powers and duties of supervisors with respect to law enforcement and courts focus on funding the offices, employees, facilities and programs of the sheriff and the court system.

Sheriff's Office: Under state law, the sheriff is required, at the July meeting of the board of supervisors, to submit a budget of estimated expenses of his office for the ensuing fiscal year beginning October 1 in a form prescribed by the Department of Audit. It is the responsibility of the board of supervisors to examine the sheriff's proposed budget and determine the amount to be expended by the sheriff in the performance of his duties for the fiscal year; the board may increase or reduce said amount as it deems necessary and proper.¹⁶¹ The budget shall include amounts for compensating the deputies and other employees of the sheriff's office; for insurance providing protection for the sheriff and his deputies in case of disability, death and other similar coverage; for travel and transportation expenses of the sheriff and deputies; for feeding prisoners and inmates of the county jail; for equipment and supplies; and for such other expenses as may be incurred in the performance of the duties of the office of sheriff.

In addition to final budget approval, the board of supervisors is required to properly provide, furnish, and supply an office for the sheriff.¹⁶² The board has the discretionary authority to authorize the purchase of motor vehicles and equipment needed for operation of the sheriff's office.¹⁶³ In instances where identifying marks and decals will hinder official investigations, the board may approve the sheriff's use of unmarked vehicles subject to statutory limitations.¹⁶⁴ The board may also purchase and maintain law enforcement dogs for the sheriff's use¹⁶⁵ and establish radio stations for law enforcement.¹⁶⁶

County Patrol Officers: The board of supervisors has discretionary authority to employ and equip county patrol officers whose duty it shall be to patrol the roads of the county and to enforce the road and motor vehicle laws.¹⁶⁷

¹⁶⁰ *Code*, § 19-3-39. See also *Const.*, § 167 and *Code*, § 9-11-1 *et seq.*, § 99-3-1, and §§ 99-15-1 through 99-15-11.

¹⁶¹ *Code*, § 19-25-13.

¹⁶² *Code*, § 19-7-23.

¹⁶³ *Code*, §§ 19-25-13 (motor vehicles and equipment); 19-5-5 (radio equipment); and 19-5-3 (law enforcement dogs).

¹⁶⁴ *Code*, § 19-25-15.

¹⁶⁵ *Code*, § 19-5-3.

¹⁶⁶ *Code*, § 19-5-5.

¹⁶⁷ *Code*, § 45-7-1. See also *Code* §§ 45-7-21 *et seq.* and 45-7-41 *et seq.* which provide additional authority relating to county patrol officers in certain counties.

Constables: The board of supervisors is required to furnish each constable with motor vehicle identification, a state prescribed blue flashing light which can be attached to the constable's vehicle, and at least two complete uniforms.¹⁶⁸

County Jail: The board of supervisors is required to cause to be erected and kept in good repair a good and convenient jail.¹⁶⁹ At least annually, the board of supervisors, or a competent person authorized by the board of supervisors, is required to examine into the state and condition of the jail in regard to its safety, sufficiency and accommodation of the prisoners and to take such legal measures as may be best to secure the prisoners against escape, sickness and infection and have the jail cleansed.¹⁷⁰

Corrections: The board of supervisors has certain duties and responsibilities with regard to the care and treatment of county convicts and working county convicts on a county farm, public roads, or other public works of the county.¹⁷¹ The board may, in its discretion, establish a public service work program for state inmates that are in the custody of the county¹⁷² and it may participate in joint state-county work programs for state inmates.¹⁷³ The board may allow the sheriff to operate an inmate canteen facility.¹⁷⁴

Courts: The board of supervisors is required by law to erect and keep in good repair in each judicial district a courthouse,¹⁷⁵ provide a place for the holding of court,¹⁷⁶ properly furnish the courthouse,¹⁷⁷ and provide a county law library.¹⁷⁸ The board of supervisors is required to bear the costs of criminal prosecutions brought in the county,¹⁷⁹ appoint one member of the county jury commission,¹⁸⁰ and provide funding for the office of the county prosecutor in those counties

¹⁶⁸ *Code*, § 19-19-1.

¹⁶⁹ *Code*, § 19-3-41.

¹⁷⁰ *Code*, § 19-5-1.

¹⁷¹ *Code*, § 47-1-3 *et seq.*

¹⁷² *Code*, § 47-5-401 *et seq.*

¹⁷³ *Code*, § 47-5-451 *et seq.*

¹⁷⁴ *Code*, § 19-3-81.

¹⁷⁵ *Code*, § 19-3-41.

¹⁷⁶ *Code*, §§ 19-3-43 and 19-3-44.

¹⁷⁷ *Code*, § 19-7-23.

¹⁷⁸ *Code*, § 19-7-31.

¹⁷⁹ *Const.*, § 261.

¹⁸⁰ *Code*, § 13-5-6.

where such an office has been established.¹⁸¹ Under certain circumstances, counties, acting through the board of supervisors, may assist in selected expenses of the office of district attorney.¹⁸²

The board of supervisors is required to include in its general fund budget an amount sufficient to cover its pro rata share of certain circuit and chancery court administrative operations and expenses approved by the court, including but are not necessarily limited to, provisions for court reporters,¹⁸³ family masters,¹⁸⁴ and court administrators.¹⁸⁵ Certain specific discretionary authority relating to the operation of the chancery court includes the board's authority to fund proper storage and indexing of chancery and probate court actions.¹⁸⁶

In counties where a county court is established, the board has the duty to make provisions for office space and funding county court personnel and operations.¹⁸⁷ The same holds true for youth court in those counties that have exercised the discretion to establish a youth court.¹⁸⁸

With regard to justice courts, the board of supervisors is responsible for appointing a justice court clerk and may appoint such other employees for the justice court as it deems necessary.¹⁸⁹ The board shall provide courtrooms for the justice court and provide office space and furnish each justice court office and provide necessary office supplies.¹⁹⁰

HEALTH AND PUBLIC WELFARE

The county board of supervisors is delegated a variety of discretionary powers that enable it to address public health and welfare concerns of county citizens. The following is a survey of some of those powers.

Zoning, Planning, Subdivision, and Building Regulations: The board of supervisors has discretionary authority, with respect to the unincorporated area of the county, to adopt land use, zoning, building, subdivision, and related regulations for the purpose of promoting health, safety,

¹⁸¹ *Code*, §§ 19-23-19 and 25-3-9.

¹⁸² *Code*, §§ 25-31-5, 25-31-8, and 25-31-33.

¹⁸³ *Code*, § 9-13-19.

¹⁸⁴ *Code*, § 9-5-255.

¹⁸⁵ *Code*, § 9-17-5.

¹⁸⁶ *Code*, § 19-15-7.

¹⁸⁷ *Code*, § 9-9-11.

¹⁸⁸ *Code*, §§ 19-9-96 and 43-21-123.

¹⁸⁹ *Code*, § 9-11-27.

¹⁹⁰ *Code*, § 9-11-5.

morals or the general welfare of the county¹⁹¹. The board may, in order to more effectively carry out such activity, create a county planning commission or permit department. It also has authority to abate nuisances on private property in certain circumstances.¹⁹² County planning and zoning is explored in Chapter XII of this book.

Urban Renewal: A variety of urban renewal and development tools are available to the board of supervisors under the Urban Renewal Law¹⁹³ to assist in the removal of slums and blighted areas and foster redevelopment in the affected areas.

Solid Waste Disposal: The Solid Waste Disposal Law of 1974¹⁹⁴ requires the board of supervisors to provide for collection and disposal of garbage and the disposal of rubbish. To accomplish this responsibility, the county may employ its own personnel and equipment or contract with private or public entities for the service.¹⁹⁵ Or, the county may create or join a regional solid waste management authority established for the purposes of accomplishing this required service¹⁹⁶ or establish a garbage disposal district.¹⁹⁷

Fire Protection, Emergency Telephone Service, Utility Districts: The board of supervisors is required to appoint a county fire coordinator¹⁹⁸ and has the discretionary authority to purchase, operate and maintain fire trucks and other fire fighting equipment.¹⁹⁹ The board may incorporate water, sewer, garbage disposal and/or fire protection districts within the county,²⁰⁰ form fire protection grading districts,²⁰¹ establish emergency communication (E-911) districts,²⁰² and establish and fund a mosquito control commission.²⁰³

¹⁹¹ Code, §§ 17-1-1 *et seq.* and 19-5-9.

¹⁹² Code, § 19-5-105.

¹⁹³ Code, § 43-35-1 *et seq.*

¹⁹⁴ Code, § 17-17-1 *et seq.*

¹⁹⁵ Code, § 19-5-17 *et seq.*

¹⁹⁶ Code, § 17-17-307.

¹⁹⁷ Code, § 19-5-151 *et seq.*

¹⁹⁸ Code, § 19-3-71.

¹⁹⁹ Code, § 19-5-97.

²⁰⁰ Code, § 19-5-151.

²⁰¹ Code, § 19-5-215.

²⁰² Code, § 19-5-305.

²⁰³ Code, § 41-27-1.

Human Resource Agencies: The board of supervisors may exercise discretionary authority to create human resource agencies responsible for administration of human resource programs authorized by federal law.²⁰⁴

Hospitals, Nursing Homes, and Health Centers: The board of supervisors is empowered to establish homes for the aged,²⁰⁵ establish and operate nursing homes for paupers and destitute aged,²⁰⁶ provide for temporary care of pauper insane,²⁰⁷ construct public health buildings and clinics,²⁰⁸ appropriate and expend monies for treatment of the indigent sick and promotion of public health of the county via support and maintenance of a full time health department,²⁰⁹ establish and maintain county health departments,²¹⁰ establish, own and operate community hospitals,²¹¹ provide financial support for mental illness and mental retardation services,²¹² own, operate and maintain a public ambulance service,²¹³ and establish emergency medical service districts.²¹⁴ The board is required to publicize the availability of confidential testing and treatment of venereal disease at the county health department.²¹⁵

Public Welfare: Every county is required to provide office space for the county department of public welfare²¹⁶ and has the discretionary authority to provide funds for maintenance of the department.²¹⁷ County boards of supervisors have a variety of discretionary authority available to them with respect to providing assistance and support to the poor of the county.²¹⁸

²⁰⁴ *Code*, § 17-15-1 *et seq.*

²⁰⁵ *Code*, § 19-5-31.

²⁰⁶ *Code*, § 19-5-35.

²⁰⁷ *Code*, § 19-5-43.

²⁰⁸ *Code*, § 19-9-47.

²⁰⁹ *Code*, § 19-5-97.

²¹⁰ *Code*, § 41-3-43.

²¹¹ *Code*, § 41-13-10.

²¹² *Code*, § 41-19-39.

²¹³ *Code*, § 41-55-1.

²¹⁴ *Code*, § 41-59-51.

²¹⁵ *Code*, § 41-23-30.

²¹⁶ *Code*, § 43-1-9.

²¹⁷ *Code*, § 43-1-11.

²¹⁸ *Code*, §§ 43-31-1 *et seq.* and 43-33-1 *et seq.*

TAXATION AND FINANCE

Perhaps the most critical responsibility of the board of supervisors falls in the realm of taxation and finance. Once the board of supervisors has determined what public services and facilities are needed, it must examine the sources of revenue available to it, accurately estimate the amount of revenue that can be generated from those sources, devise a budget²¹⁹ and impose an ad valorem tax levy²²⁰ designed to support that budget thereby meeting the public service and facility priorities of the county. Another fundamental element which is critical to the accomplishment of the board's priorities, is to see to the proper safekeeping, investment, and expenditure of the public funds which it holds in trust for and on behalf of the public. Among other things, state law requires the public funds of the county be deposited in an approved county depository²²¹ and be accounted for via maintenance of a uniform system of accounts.²²² Furthermore, deficit spending is prohibited,²²³ as are certain expenditures during the board's last year of the term of office.²²⁴

The most common sources of revenue available to counties are ad valorem taxes levied against all taxable real and personal property in the county, and fees from the issuance of permits and/or paid to support certain services such as garbage collection and disposal. Another typical source of funds is from the issuance of general obligation or revenue notes or bonds which, generally, are reserved for significant capital expenditures. State assistance may also be available in the form of grants or loans. A more comprehensive discussion of the duties, authority, and responsibilities of boards of supervisors with respect to financial administration, taxes, purchasing, and public borrowing is found in Chapters VII, VIII, IX, and X of this book.

ARTS, RECREATION, CONSERVATION, AND CHARITABLE ACTIVITIES

Counties have the express discretionary authority to provide for and support the arts²²⁵ and establish public libraries.²²⁶ The boards have the discretion to establish, own and operate public parks and playgrounds²²⁷ and provide financial assistance in aid of fairs and fair associations.²²⁸ With respect to conservation, the board of supervisors has discretionary authority to appropriate

²¹⁹*Code*, § 19-11-1 *et seq.*

²²⁰*Code*, § 19-3-41.

²²¹*Code*, §§ 25-1-72 and 27-105-303 *et seq.*

²²²*Code*, § 19-11-13.

²²³*Code*, § 19-11-15.

²²⁴*Code*, §§ 19-11-27, 19-13-17, 19-13-21, 23-15-881, 23-15-883, 65-7-95, and 65-9-19.

²²⁵*Code*, § 39-15-1.

²²⁶*Code*, § 39-3-1.

²²⁷*Code*, § 17-1-3.

²²⁸*Code*, §§ 17-3-7 and 19-9-101.

funds in support of the counties' soil and water conservation district,²²⁹ establish water management districts,²³⁰ accept flood control agreements for rights-of-way and maintenance,²³¹ purchase or condemn lands for state parks or forest,²³² and contribute to soil conservation districts.²³³ With respect to recreation, the county board of supervisors also has discretionary authority to issue bonds to establish lands for recreational facilities,²³⁴ appoint a county recreational commission,²³⁵ and create a county park commission.²³⁶ Unless express statutory authority is granted, the board may not make donations for any private purpose. Where express authority to make donations is provided, it generally is for certain limited patriotic and charitable uses.²³⁷

PUBLIC WORKS

The board of supervisors exercise tremendous responsibility with regard to the public works of the county. For purposes of this survey, public works can be defined as the construction, acquisition, and maintenance of the capital assets the county needs to support and promote its business. The most obvious and visible of the county's many public works responsibilities is the county road and bridge system. Public works also include the county courthouse and other county buildings that are essential for housing the various offices of the county, county officers and other offices which the board of supervisors is required or has discretionary authority to provide.

General Provisions: By statute, the county board of supervisors has the authority to acquire by donation, gift or negotiated purchase the necessary land needed to provide the public facilities required of the county.²³⁸ If necessary, the board of supervisors may exercise the power of eminent domain to acquire property necessary for letting out new public roads or improving existing public roads²³⁹ and with respect to certain industrial development activities.²⁴⁰ The board's authority to exercise eminent domain includes the power of immediate possession in

²²⁹Code, § 19-9-113.

²³⁰Code, § 51-8-1.

²³¹Code, § 51-35-15.

²³²Code, § 55-3-13.

²³³Code, § 69-27-67.

²³⁴Code, § 55-9-1.

²³⁵Code, § 55-9-53.

²³⁶Code, § 55-9-81.

²³⁷Code, §§ 19-5-93, 35-3-5, and 39-15-1.

²³⁸Code, 19-7-1.

²³⁹Code, § 65-7-89.

²⁴⁰Code, §§ 57-5-21, 57-5-23, and 59-9-1 *et seq.*

certain cases relating to public roads and utilities.²⁴¹ The county board of supervisors is delegated express authority to entertain contracts for public works in the manner prescribed by law.²⁴²

Roads and Bridges: The county board of supervisors is delegated the monumental task of constructing and maintaining the vast majority of the tens of thousands of road miles in the state. As previously stated, the board of supervisors' jurisdiction over county roads is delegated by the Constitution.²⁴³ In order to properly establish and document the county's public road system, the board must adopt and maintain an official county road map and road register which must be updated at least annually.²⁴⁴ The board is required to annually inspect and report on the condition of the county road and bridge system and, if operating under the countywide system of road administration, must adopt a four-year plan for construction and maintenance.²⁴⁵ The public roads of the county cannot be changed or altered except by order of the board of supervisors.²⁴⁶ It is within the exclusive jurisdiction of the board to determine when and where a public road should be laid out and/or changed when public necessity demands.²⁴⁷ It is left to the exclusive discretion of the board to take action to abandon and close public roads of the county when appropriate.²⁴⁸

The board of supervisors is empowered to adopt and enforce regulations with respect to use of the public roads and bridges including, regulating what type of wheels may be used on vehicles on the public roads,²⁴⁹ and establishing maximum load limits on roads and bridges.²⁵⁰ Suffice it to say, the board of supervisors possess a great deal of discretionary power in setting the priorities, funding and regulation of the public roads of the county. However, these powers are not without limits. The *Constitution* requires that the board's jurisdiction with respect to county roads and bridges be exercised in accordance with such regulations as may be prescribed by the legislature. As such, the board must exercise its discretion over roads and bridges in a manner consistent with certain statutory standards as those found in *Code*, § 65-7-1 *et seq.* and other related statutory provisions. The State Aid Road Division of the Mississippi Department of Transportation prescribes, from time to time, certain minimum standards of construction and maintenance with respect to state aid roads and other road and bridge programs which offer state

²⁴¹ *Code*, § 11-27-81.

²⁴² *Code*, §§ 31-7-13, and 31-5-3 *et seq.*

²⁴³ *Const.*, § 170. See also *Code*, § 19-3-41.

²⁴⁴ *Code*, § 65-7-4.

²⁴⁵ *Code*, § 65-7-117.

²⁴⁶ *Code*, § 65-7-5.

²⁴⁷ *Code*, § 65-7-1.

²⁴⁸ *Code*, § 65-7-121.

²⁴⁹ *Code*, § 65-7-37.

²⁵⁰ *Code*, §§ 65-7-43 through 65-7-49, and § 63-5-27.

funding and technical assistance to counties.²⁵¹ In addition, the specific method and procedure by which the board of supervisors administer the county road and bridge system depends upon whether the county operates under the beat system or the countywide (unit) system of road administration. The specifics of these two methods of road and bridge administration are discussed in some detail in Chapter VI of this book.

Other Public Works: The board of supervisors is authorized to acquire, construct and maintain a courthouse, jail and such other public offices, as the county may be required to maintain, or which the board has the discretion to provide. These public facilities are those that are reasonable and necessary to support the various enterprises in which the county offices and other public offices within the county may be engaged. In addition to the courthouse and jail, there is the requirement for housing the offices of the sheriff, circuit and chancery clerks, tax assessor and tax collector, court and court officials, and the various county departments and other public offices supported by the county. Acquisition, construction, and maintenance of public facilities such as parks and recreational facilities fall into the public works category. There are also infrastructure facilities and equipment which the county board of supervisors has the authority to establish and maintain. For example, public works facilities such as landfills may be necessary to support the board's mandate to provide garbage collection and disposal facilities, and water sewage treatment facilities may be provided by the county to support the county industrial park.

INDUSTRIAL DEVELOPMENT

The role of county boards of supervisors with respect to industrial development has increased significantly in recent years. The board of supervisors has the opportunity and resources to serve as a major player in attracting commercial and industrial development into the county.

To begin with, counties have the discretionary authority to engage in the advertisement of the county's resources.²⁵² To assist the board and other development organizations with industrial development responsibility, the board of supervisors may establish economic development districts²⁵³ and levy taxes for the purpose of financing and supporting economic development districts.²⁵⁴ Counties may establish airport authorities²⁵⁵ and industrial parks.²⁵⁶ For those counties along the navigable waterways of the state, there is the discretionary authority to form port authorities to assist in economic development activities.²⁵⁷

Counties may now expand their authority and reach by participating with cities and other counties through the formation of regional economic development alliances to share costs and

²⁵¹*Code*, §§ 65-9-1 *et seq.* (state aid roads and bridges); and 65-11-1 *et seq.* (county highway aid).

²⁵²*Code*, § 17-3-1.

²⁵³*Code*, § 19-5-99.

²⁵⁴*Code*, § 19-9-111.

²⁵⁵*Code*, §§ 61-33-5 and 61-5-5.

²⁵⁶*Code*, § 57-5-21.

²⁵⁷*Code*, §§ 59-7-1 *et seq.* and 59-9-1 *et seq.*

revenues of certain industrial projects, and to pledge revenue derived from a project to secure payment of bonds.²⁵⁸

Mississippi law also offers a wide variety of state grants, public financing, development tools, and tax incentives that are available to the board of supervisors in its industrial development efforts. These include, among others, the authority to acquire or construct projects and issue general obligation or revenue bonds therefore,²⁵⁹ and participate in opportunities offered under such programs as the Mississippi Business Finance Corporation,²⁶⁰ Mississippi Business Investment Act,²⁶¹ Tax Increment Financing Act,²⁶² Growth and Prosperity Program,²⁶³ Major Economic Impact Authority,²⁶⁴ Small Municipalities and Limited Population Counties Program,²⁶⁵ and others.

INTER-GOVERNMENTAL COOPERATION

The *Code* provides a variety of opportunities that empower the board of supervisors to entertain interlocal governmental agreements to share the cost and responsibility of providing public services and facilities. The most widely used authority is the Interlocal Cooperation Act of 1974²⁶⁶ which authorizes the board of supervisors to enter into cooperative agreements with other local governments to provide public services, facilities, and to otherwise jointly exercise their respective powers more efficiently. Another source of authority for interlocal cooperation, though rarely used, is the authority to create multi-jurisdictional cooperative service districts for the purposes of jointly providing public services and facilities.²⁶⁷

In addition to the broad authority offered by the Interlocal Cooperation Act of 1974 and the Cooperative Service District Act, the *Code* offers a number of other opportunities to engage in inter-governmental cooperation with regard to a number of specific activities. A few examples include: authority to construct, remodel, and to maintain a joint city and county jail;²⁶⁸ agreements whereby municipalities will provide fire protection in unincorporated areas of the

²⁵⁸ *Code*, §§ 57-64-1 *et seq.*

²⁵⁹ *Code*, §§ 19-5-99, 57-1-1 *et seq.*, and 57-3-1 *et seq.*

²⁶⁰ *Code*, § 57-10-1 *et seq.*

²⁶¹ *Code*, § 57-61-1 *et seq.*

²⁶² *Code*, § 21-45-1 *et seq.*

²⁶³ *Code*, §§ 57-80-1 *et seq.*

²⁶⁴ *Code*, §§ 57-75-1 *et seq.*

²⁶⁵ *Code*, § 57-1-18.

²⁶⁶ *Code*, § 17-13-1 *et seq.*

²⁶⁷ *Code*, § 19-3-101.

²⁶⁸ *Code*, § 17-5-1.

county;²⁶⁹ agreements with the United States regarding navigation projects;²⁷⁰ and cooperation with respect to the construction and maintenance of public roads.²⁷¹

The “Regional Economic Development Act”²⁷² provides another tool for multi-jurisdictional cooperation. As stated in the preceding section on industrial development, the provisions of the Act empower counties and cities to form regional alliances to coordinate economic development efforts.

These examples illustrate the fact that many of the duties and responsibilities of the board of supervisors may be accomplished in cooperation with other political subdivisions on the basis of mutual advantage and increased efficiency.

²⁶⁹ *Code*, § 83-1-39.

²⁷⁰ *Code*, § 19-5-91.

²⁷¹ *Code*, §§ 65-7-77 and 65-7-79.

²⁷² *Code*, §§ 57-64-1 *et seq.*