

REPORT OF CONFERENCE COMMITTEE

MR. SPEAKER AND MADAM PRESIDENT:

We, the undersigned conferees, have had under consideration the amendments to the following entitled BILL:

H. B. No. 1406: Building codes; require certain counties to enforce certain code requirements.

We, therefore, respectfully submit the following report and recommendation:

1. That the Senate recede from its Amendment No. 1.
2. That the House and Senate adopt the following amendment:

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

19 SECTION 1. (1) The counties of Jackson, Harrison, Hancock,
20 Stone and Pearl River, including all municipalities therein, shall
21 enforce, on an emergency basis, all the wind and flood mitigation
22 requirements prescribed by the 2003 International Residential Code
23 and the 2003 International Building Code, as supplemented.

24 (2) Except as otherwise provided in subsection (4) of this
25 section, emergency wind and flood building requirements imposed in
26 this section shall remain in force until the county board of
27 supervisors or municipal governing authorities, as the case may
28 be, adopts as minimum mandatory codes the latest editions of any
29 of the codes described in subsection (3) of this section. Except
30 as otherwise provided in subsection (4) of this section, the wind
31 and flood mitigation requirements imposed by this section shall be
32 enforced by the county board of supervisors or municipal governing
33 authorities, as the case may be.

34 (3) A county board of supervisors or municipal governing
35 authorities, as the case may be, described in subsection (1) of
36 this section shall adopt as minimum codes the latest editions of
37 any of the following:

38 (a) International Building Code and the standards
39 referenced in that code for regulation of construction within

40 these counties. The appendices of that code may be adopted as
41 needed, but the specific appendix or appendices must be referenced
42 by name or letter designation at the time of adoption.

43 (b) International Residential Code (IRC) and the
44 standards referenced in that code are included for regulation of
45 construction within these counties. The appendices of that code
46 may be adopted as needed, but the specific appendix or appendices
47 must be referenced by name or letter designation at the time of
48 adoption, with the exception of Appendix J, Existing Buildings and
49 Structures, which is hereby adopted by this reference.

50 (c) Codes established by the Mississippi Building Code
51 Council.

52 (d) Other codes addressing matters such as electrical,
53 plumbing, mechanical, fire and fuel gas.

54 (4) The provisions of this section shall go into effect
55 thirty (30) days from the effective date of this act. However,
56 within sixty (60) days after the provisions of this section go
57 into effect, the board of supervisors of a county and/or the
58 governing authorities of any municipality within a county, upon
59 resolution duly adopted and entered upon its minutes, may choose
60 not to be subject to the code requirements imposed under this
61 section.

62 **SECTION 2.** (1) There is hereby created the Mississippi
63 Building Codes Council. Each member of the council shall be
64 appointed by the executive director of his respective professional
65 association unless otherwise stated herein. Each member shall
66 serve for a term of three (3) years and until a successor is
67 appointed and qualifies. No person who has previously been
68 convicted of a felony in this state or any other state may be
69 appointed to the council. The council shall consist of twenty-six
70 (26) members composed of:

71 (a) One (1) representative of the American Institute of
72 Architects of Mississippi;

73 (b) Three (3) representatives of the Home Builders
74 Association of Mississippi;

75 (c) One (1) representative of the Associated General
76 Contractors of Mississippi;

77 (d) One (1) representative of the Associated Builders
78 and Contractors of Mississippi;

79 (e) One (1) representative of the American Council of
80 Engineering Companies of Mississippi;

81 (f) Two (2) representatives of the Building Officials
82 Association of Mississippi;

83 (g) One (1) disabled person to be appointed by the
84 Governor;

85 (h) One (1) representative of the property/casualty
86 insurance industry to be appointed by the Governor;

87 (i) One (1) representative of the Mississippi Municipal
88 League;

89 (j) One (1) representative of the Mississippi
90 Manufactured Housing Association;

91 (k) One (1) representative of the electrical industry
92 who is a master electrician to be appointed by the American
93 Subcontractors Association;

94 (l) One (1) representative of the mechanical or gas
95 industry who is a master mechanic to be appointed by the American
96 Subcontractors Association;

97 (m) One (1) representative of the plumbing industry who
98 is a master plumber to be appointed by the American Subcontractors
99 Association;

100 (n) One (1) representative of the Mississippi Fire
101 Chiefs Association;

102 (o) One (1) representative of the Mississippi
103 Association of Supervisors;

104 (p) One (1) representative of the Mississippi Minority
105 Contractors Association to be appointed by the Governor;

106 (q) One (1) representative of the Energy Division,
107 Mississippi Development Authority, to serve ex officio, nonvoting;

108 (r) One (1) person representing the consumer who shall
109 have no interest in the construction industry to be appointed by
110 the Governor;

111 (s) The Mississippi State Fire Marshal, or his
112 designee, to serve ex officio, nonvoting;

113 (t) The Executive Director of the State Board of
114 Professional Geologists, or his designee, to serve ex officio,
115 nonvoting; and

116 (u) Three (3) representatives selected by the
117 Mississippi Gulf Coast Building and Construction Trade Council.

118 (2) A vacancy must be filled in the manner of the original
119 appointment for the unexpired portion of the term.

120 (3) The State Fire Marshal shall convene the first meeting
121 of the council within ninety (90) days of the effective date of
122 this act and shall act as temporary chairman until the council
123 elects from its members a chairman and vice chairman. The council
124 shall adopt regulations consistent with this act. A meeting may
125 be called by the chairman on his own initiative and must be called
126 by him at the request of three (3) or more members of the council.
127 Each member must be notified by the chairman in writing of the
128 time and place of the meeting at least seven (7) days before the
129 meeting. Fourteen (14) members constitute a quorum. Each meeting
130 is open to the public. An official decision of the council may be
131 made only by a vote of at least two-thirds (2/3) of those members
132 in attendance at the meeting.

133 (4) The council shall adopt by reference and amend only the
134 latest editions of the following as discretionary statewide
135 minimum codes:

136 (a) International Building Code and the standards
137 referenced in that code for regulation of construction within this
138 state. The appendices of that code may be adopted as needed, but
139 the specific appendix or appendices must be referenced by name or
140 letter designation at the time of adoption.

141 (b) International Residential Code (IRC) and the
142 standards referenced in that code are included for regulation of
143 construction within this state. The appendices of that code may
144 be adopted as needed, but the specific appendix or appendices must
145 be referenced by name or letter designation at the time of
146 adoption, with the exception of Appendix J, Existing Buildings and
147 Structures, which is hereby adopted by this reference.

148 (c) Other codes addressing matters such as electrical,
149 plumbing, mechanical, fire and fuel gas.

150 (5) The initial code or codes adopted by this council under
151 the provisions of this section shall be completed no later than
152 July 1, 2007.

153 **SECTION 3.** A county board of supervisors or municipal
154 governing authorities, as the case may be, may adopt as minimum
155 codes, any proposed codes established and promulgated by the
156 Mississippi Building Codes Council. Any codes adopted by a board
157 of supervisors or municipal governing authorities under this
158 section shall be enforced by the board of supervisors or municipal
159 governing authorities, as the case may be.

160 **SECTION 4.** (1) For purposes of this section, "farm
161 structure" means a structure that is constructed on a farm, other
162 than a residence or a structure attached to it, for use on the
163 farm, including, but not limited to, barns, sheds and poultry
164 houses, but not public livestock areas. For purposes of this

165 section, "farm structure" does not include a structure originally
166 qualifying as a "farm structure" but later converted to another
167 use.

168 (2) The governing body of a county or municipality may not
169 enforce that portion of any building code established and/or
170 imposed under Sections 1 through 3 of this act that regulates the
171 construction or improvement of a farm structure.

172 (3) The provisions of this section do not apply unless,
173 before constructing or improving a farm structure, the person
174 owning the property on which the structure is to be constructed
175 files an affidavit with the county or municipal official
176 responsible for enforcing the building code stating that the
177 structure is being constructed as a farm structure. The affidavit
178 must include a statement of purpose or intended use of the
179 proposed structure or addition.

180 (4) This section does not affect the authority of the
181 governing body of a county or municipality to issue building
182 permits before an affidavit for the construction or improvement of
183 a farm structure is filed under subsection (3) of this section.

184 **SECTION 5.** (1) The governing authority of any county or
185 municipality shall not enforce any portion of any building codes
186 established and/or imposed under Sections 1 through 3 of this act
187 that regulates the construction or improvement of industrial
188 facilities that are engaged in activities designated as
189 manufacturing (sectors 31-33), utilities (sector 22), bulk
190 stations and materials (sector 422710), crude oil pipelines
191 (sector 486110), refined petroleum products pipelines (sector
192 486910), natural gas pipelines (sector 486210), other pipelines
193 (sector 486990) and natural gas processing plants (sector 211112),
194 under the North American Industry Classification System (NAICS).

195 (2) The governing authority of any county or municipality
196 shall not enforce any portion of any building codes established

197 and/or imposed under Sections 1 through 3 of this act which
198 regulates the construction or improvement of buildings located on
199 nonpublic fairgrounds or the construction or improvement of
200 buildings located on the Neshoba County Fairgrounds in Neshoba
201 County, Mississippi.

202 (3) The governing authority of any county or municipality
203 shall not enforce that portion of any building codes established
204 and/or imposed under Sections 1 through 3 of this act which
205 regulates the construction or improvement of a private unattached
206 outdoor recreational structure, such as a hunting or fishing camp.

207 **SECTION 6.** Section 19-5-9, Mississippi Code of 1972, is
208 amended as follows:

209 19-5-9. The construction codes published by a nationally
210 recognized code group which sets minimum standards and has the
211 proper provisions to maintain up-to-date amendments are adopted as
212 minimum standard guides for building, plumbing, electrical, gas,
213 sanitary, and other related codes in Mississippi. Any county
214 within the State of Mississippi, in the discretion of the board of
215 supervisors, may adopt building codes, plumbing codes, electrical
216 codes, sanitary codes, or other related codes dealing with general
217 public health, safety or welfare, or a combination of the same,
218 within but not exceeding the provisions of the construction codes
219 published by nationally recognized code groups, by order or
220 resolution in the manner prescribed in this section, but those
221 codes so adopted shall apply only to the unincorporated areas of
222 the county. However, those codes shall not apply to the erection,
223 maintenance, repair or extension of farm buildings or farm
224 structures, except as may be required under the terms of the
225 "Flood Disaster Protection Act of 1973" and shall apply to a
226 master planned community as defined in Section 19-5-10, only to
227 the extent allowed in Section 19-5-10. The provisions of this
228 section shall not be construed to authorize the adoption of any

229 code which applies to the installation, repair or maintenance of
230 electric wires, pipelines, apparatus, equipment or devices by or
231 for a utility rendering public utility services, required by it to
232 be utilized in the rendition of its duly authorized service to the
233 public. Before any such code shall be adopted, it shall be either
234 printed or typewritten and shall be presented in pamphlet form to
235 the board of supervisors at a regular meeting. The order or
236 resolution adopting the code shall not set out the code in full,
237 but shall merely identify the same. The vote or passage of the
238 order or resolution shall be the same as on any other order or
239 resolution. After its adoption, the code or codes shall be
240 certified to by the president and clerk of the board of
241 supervisors and shall be filed as a permanent record in the office
242 of the clerk who shall not be required to transcribe and record
243 the same in the minute book as other orders and resolutions.

244 All provisions of this section shall apply to amendments and
245 revisions of the codes mentioned in this section. The provisions
246 of this section shall be in addition and supplemental to any
247 existing laws authorizing the adoption, amendment or revision of
248 county orders, resolutions or codes.

249 Any code adopted under the provisions of this section shall
250 not be in operation or force until sixty (60) days have elapsed
251 from the adoption of same; however, any code adopted for the
252 immediate preservation of the public health, safety and general
253 welfare may be effective from and after its adoption by a
254 unanimous vote of the members of the board. Within five (5) days
255 after the adoption or passage of an order or resolution adopting
256 that code or codes the clerk of the board of supervisors shall
257 publish in a legal newspaper published in the county the full text
258 of the order or resolution adopting and approving the code, and
259 the publication shall be inserted at least three (3) times, and

260 shall be completed within thirty (30) days after the passage of
261 the order or resolution.

262 Any person or persons objecting to the code or codes may
263 object in writing to the provisions of the code or codes within
264 sixty (60) days after the passage of the order or resolution
265 approving same, and if the board of supervisors adjudicates that
266 ten percent (10%) or more of the qualified electors residing in
267 the affected unincorporated areas of the county have objected in
268 writing to the code or codes, then in such event the code shall be
269 inoperative and not in effect unless adopted for the immediate
270 preservation of the public health, safety and general welfare
271 until approved by a special election called by the board of
272 supervisors as other special elections are called and conducted by
273 the election commissioners of the county as other special
274 elections are conducted, the special election to be participated
275 in by all the qualified electors of the county residing in the
276 unincorporated areas of the county. If the voters approve the
277 code or codes in the special election it shall be in force and in
278 operation thereafter until amended or modified as provided in this
279 section. If the majority of the qualified electors voting in the
280 special election vote against the code or codes, then, in such
281 event, the code or codes shall be void and of no force and effect,
282 and no other code or codes dealing with that subject shall be
283 adopted under the provisions of this section until at least two
284 (2) years thereafter.

285 After any such code shall take effect the board of
286 supervisors is authorized to employ such directors and other
287 personnel as the board, in its discretion, deems necessary and to
288 expend general county funds or any other funds available to the
289 board to fulfill the purposes of this section.

290 For the purpose of promoting health, safety, morals or the
291 general welfare of the community, the governing authority of any

292 municipality, and, with respect to the unincorporated part of any
293 county, the governing authority of any county, in its discretion,
294 are empowered to regulate the height, number of stories and size
295 of building and other structures, the percentage of lot that may
296 be occupied, the size of the yards, courts and other open spaces,
297 the density or population, and the location and use of buildings,
298 structures and land for trade, industry, residence or other
299 purposes, but no permits shall be required except as may be
300 required under the terms of the "Flood Disaster Protection Act of
301 1973" for the erection, maintenance, repair or extension of farm
302 buildings or farm structures outside the corporate limits of
303 municipalities.

304 The authority granted in this section is cumulative and
305 supplemental to any other authority granted by law.

306 Notwithstanding any provision of this section to the
307 contrary, any code adopted by a county before or after April 12,
308 2001, is subject to the provisions of Section 41-26-14(10).

309 Notwithstanding any provision of this section to the
310 contrary, the Boards of Supervisors of Jackson, Harrison, Hancock,
311 Stone and Pearl River Counties shall enforce the requirements
312 imposed under Section 1 of this act as provided in such section.

313 **SECTION 7.** Section 21-19-25, Mississippi Code of 1972, is
314 amended as follows:

315 21-19-25. Any municipality within the State of Mississippi
316 may, in the discretion of its governing authorities, adopt
317 building codes, plumbing codes, electrical codes, gas codes,
318 sanitary codes, or any other codes dealing with general public
319 health, safety or welfare, or a combination of the same, by
320 ordinance, in the manner prescribed in this section. Before any
321 such code shall be adopted, it shall be either printed or
322 typewritten, and it shall be presented in pamphlet form to the
323 governing authorities of the municipality at a regular meeting.

324 The ordinance adopting the code shall not set out the code in
325 full, but shall merely identify the same. The vote on passage of
326 the ordinance shall be the same as on any other ordinances. After
327 its adoption, the code shall be certified to by the mayor and
328 clerk of the municipality, and shall be filed as a permanent
329 record in the office of the clerk, who shall not be required to
330 transcribe and record the same in the ordinance book as other
331 ordinances. It shall not be necessary that the ordinance adopting
332 the code or the code itself be published in full, but notice of
333 the adoption of the code shall be given by publication in some
334 newspaper of the municipality for one (1) time, or if there be no
335 such newspaper, by posting at three (3) or more public places
336 within the corporate limits, a notice in substantially the
337 following form:

338 Notice is given that the city (or town or village)
339 of _____, on the (give date of ordinance adopting
340 code), adopted (state type of code and other information
341 serving to identify the same) code.

342 All the provisions of this section shall apply to amendments
343 and revisions of the code mentioned in this section. Any code
344 adopted in accordance with this section shall not be in force for
345 one (1) month after its passage, unless the municipal authorities
346 in the ordinance authorize to the contrary. The provisions of
347 this section shall be in addition and supplemental to any existing
348 laws authorizing the adoption, amendment or revision of municipal
349 ordinances or codes.

350 Notwithstanding any provision of this section to the
351 contrary, any code adopted by a municipality before or after April
352 12, 2001, is subject to the provisions of Section 41-26-14(10).

353 Notwithstanding any provision of this section to the
354 contrary, the governing authorities of each municipality in
355 Jackson, Harrison, Hancock, Stone and Pearl River Counties shall

356 enforce the requirements imposed under Section 1 of this act as
357 provided in such section.

358 The provisions of this section shall apply to all
359 municipalities of this state, whether operating under the code
360 charter, a special charter, commission form, or other form of
361 government.

362 **SECTION 8.** This act shall take effect and be in force from
363 and after its passage.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO REQUIRE JACKSON, HARRISON, HANCOCK, STONE AND PEARL
2 RIVER COUNTIES, AND MUNICIPALITIES LOCATED THEREIN, TO ENFORCE
3 WIND AND FLOOD MITIGATION REQUIREMENTS OF CERTAIN NATIONALLY
4 RECOGNIZED CODES AND STANDARDS; TO PROVIDE THAT THE BOARD OF
5 SUPERVISORS OF ANY SUCH COUNTY AND/OR THE GOVERNING AUTHORITIES OF
6 ANY MUNICIPALITY WITHIN A COUNTY, UPON RESOLUTION DULY ADOPTED AND
7 ENTERED UPON ITS MINUTES, MAY CHOOSE NOT TO BE SUBJECT TO SUCH
8 CODE REQUIREMENTS; TO REQUIRE SUCH COUNTIES AND MUNICIPALITIES TO
9 ADOPT CERTAIN NATIONALLY RECOGNIZED BUILDING AND RESIDENTIAL
10 CODES; TO CREATE THE MISSISSIPPI BUILDING CODES COUNCIL AND
11 PROVIDE FOR ITS MEMBERSHIP; TO PROVIDE THAT COUNTIES AND
12 MUNICIPALITIES MAY ADOPT CODES ESTABLISHED BY THE MISSISSIPPI
13 BUILDING CODES COUNCIL; TO EXEMPT FARM STRUCTURES AND CERTAIN
14 OTHER BUILDINGS AND FACILITIES FROM THE PROVISIONS OF THIS ACT; TO
15 AMEND SECTIONS 19-5-9 AND 21-19-25, MISSISSIPPI CODE OF 1972, IN
16 CONFORMITY TO THE PROVISIONS OF THIS ACT; AND FOR RELATED
17 PURPOSES.

CONFEREES FOR THE HOUSE

X (SIGNED)
Watson

X (SIGNED)
Cummings

X (SIGNED)
Compretta

CONFEREES FOR THE SENATE

X (SIGNED)
Kirby

X (SIGNED)
Chaney

X (SIGNED)
Hewes