

By: Senator(s) DeBar

To: County Affairs;
Municipalities

SENATE BILL NO. 2725

1 AN ACT TO AMEND SECTIONS 19-5-9 AND 21-19-25, MISSISSIPPI
2 CODE OF 1972, TO RESTORE TO LOCAL GOVERNMENTS THE DISCRETION TO
3 CHOOSE WHETHER TO REQUIRE PERMITTING AS A CONDITION TO
4 CONSTRUCTION; AND FOR RELATED PURPOSES.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

6 **SECTION 1.** Consistent with the principles of local control
7 and self-determination, it is the intent of the Legislature that
8 all counties and municipalities in this state shall have restored
9 to them the option and choice of requiring permits for
10 construction within the county or municipality's jurisdiction, and
11 if the county or municipality does require permits, the option to
12 determine for themselves the form and content of such permits.

13 **SECTION 2.** Section 19-5-9, Mississippi Code of 1972, is
14 amended as follows:

15 19-5-9. (1) The construction codes published by a
16 nationally recognized code group which sets minimum standards and
17 has the proper provisions to maintain up-to-date amendments are
18 adopted as minimum standard guides for building, plumbing,
19 electrical, gas, sanitary, and other related codes in Mississippi.



20 Any county within the State of Mississippi, in the discretion of
21 the board of supervisors, may adopt building codes, plumbing
22 codes, electrical codes, sanitary codes, or other related codes
23 dealing with general public health, safety or welfare, or a
24 combination of the same, within but not exceeding the provisions
25 of the construction codes published by nationally recognized code
26 groups, by order or resolution in the manner prescribed in this
27 section, but those codes so adopted shall apply only to the
28 unincorporated areas of the county. However, those codes shall
29 not apply to the erection, maintenance, repair or extension of
30 farm buildings or farm structures, except as may be required under
31 the terms of the "Flood Disaster Protection Act of 1973," and
32 shall apply to a master planned community as defined in Section
33 19-5-10 only to the extent allowed in Section 19-5-10. The
34 provisions of this section shall not be construed to authorize the
35 adoption of any code which applies to the installation, repair or
36 maintenance of electric wires, pipelines, apparatus, equipment or
37 devices by or for a utility rendering public utility services,
38 required by it to be utilized in the rendition of its duly
39 authorized service to the public. Before any such code shall be
40 adopted, it shall be either printed or typewritten and shall be
41 presented in pamphlet form to the board of supervisors at a
42 regular meeting. The order or resolution adopting the code shall
43 not set out the code in full, but shall merely identify the same.
44 The vote or passage of the order or resolution shall be the same



45 as on any other order or resolution. After its adoption, the code
46 or codes shall be certified to by the president and clerk of the
47 board of supervisors and shall be filed as a permanent record in
48 the office of the clerk who shall not be required to transcribe
49 and record the same in the minute book as other orders and
50 resolutions.

51 (2) If the board of supervisors of any county adopts or has
52 adopted construction codes which do not have proper provisions to
53 maintain up-to-date amendments, specifications in such codes for
54 cements used in portland cement concrete shall be superseded by
55 nationally recognized specifications referenced in any code
56 adopted by the Mississippi Building Code Council.

57 (3) All provisions of this section shall apply to amendments
58 and revisions of the codes mentioned in this section. The
59 provisions of this section shall be in addition and supplemental
60 to any existing laws authorizing the adoption, amendment or
61 revision of county orders, resolutions or codes.

62 (4) Any code adopted under the provisions of this section
63 shall not be in operation or force until sixty (60) days have
64 elapsed from the adoption of same; however, any code adopted for
65 the immediate preservation of the public health, safety and
66 general welfare may be effective from and after its adoption by a
67 unanimous vote of the members of the board. Within five (5) days
68 after the adoption or passage of an order or resolution adopting
69 that code or codes the clerk of the board of supervisors shall



70 publish in a legal newspaper published in the county the full text
71 of the order or resolution adopting and approving the code, and
72 the publication shall be inserted at least three (3) times, and
73 shall be completed within thirty (30) days after the passage of
74 the order or resolution.

75 (5) Any person or persons objecting to the code or codes may
76 object in writing to the provisions of the code or codes within
77 sixty (60) days after the passage of the order or resolution
78 approving same, and if the board of supervisors adjudicates that
79 ten percent (10%) or more of the qualified electors residing in
80 the affected unincorporated areas of the county have objected in
81 writing to the code or codes, then in such event the code shall be
82 inoperative and not in effect unless adopted for the immediate
83 preservation of the public health, safety and general welfare
84 until approved by a special election called by the board of
85 supervisors as other special elections are called and conducted by
86 the election commissioners of the county as other special
87 elections are conducted, the special election to be participated
88 in by all the qualified electors of the county residing in the
89 unincorporated areas of the county. If the voters approve the
90 code or codes in the special election it shall be in force and in
91 operation thereafter until amended or modified as provided in this
92 section. If the majority of the qualified electors voting in the
93 special election vote against the code or codes, then, in such
94 event, the code or codes shall be void and of no force and effect,



95 and no other code or codes dealing with that subject shall be
96 adopted under the provisions of this section until at least two
97 (2) years thereafter.

98 (6) After any such code shall take effect the board of
99 supervisors is authorized to employ such directors and other
100 personnel as the board, in its discretion, deems necessary and to
101 expend general county funds or any other funds available to the
102 board to fulfill the purposes of this section.

103 (7) For the purpose of promoting health, safety, morals or
104 the general welfare of the community, the governing authority of
105 any municipality, and, with respect to the unincorporated part of
106 any county, the governing authority of any county, in its
107 discretion, is empowered to regulate the height, number of stories
108 and size of building and other structures, the percentage of lot
109 that may be occupied, the size of the yards, courts and other open
110 spaces, the density or population, and the location and use of
111 buildings, structures and land for trade, industry, residence or
112 other purposes, but no permits shall be required except as may be
113 required under the terms of the "Flood Disaster Protection Act of
114 1973" for the erection, maintenance, repair or extension of farm
115 buildings or farm structures outside the corporate limits of
116 municipalities.

117 (8) The authority granted in this section is cumulative and
118 supplemental to any other authority granted by law.



119 (9) Notwithstanding any provision of this section to the
120 contrary, any code adopted by a county before or after April 12,
121 2001, is subject to the provisions of Section 41-26-14(10).

122 (10) Notwithstanding any provision of this section to the
123 contrary, the Boards of Supervisors of Jackson, Harrison, Hancock,
124 Stone and Pearl River Counties shall enforce the requirements
125 imposed under Section 17-2-1 as provided in such section.

126 * * *

127 **SECTION 3.** Section 21-19-25, Mississippi Code of 1972, is
128 amended as follows:

129 21-19-25. (1) Any municipality within the State of
130 Mississippi may, in the discretion of its governing authority,
131 adopt building codes, plumbing codes, electrical codes, gas codes,
132 sanitary codes, or any other codes dealing with general public
133 health, safety or welfare, or a combination of the same, by
134 ordinance, in the manner prescribed in this section. Before any
135 such code shall be adopted, it shall be either printed or
136 typewritten, and it shall be presented in pamphlet form to the
137 governing authority of the municipality at a regular meeting. The
138 ordinance adopting the code shall not set out the code in full,
139 but shall merely identify the same. The vote on passage of the
140 ordinance shall be the same as on any other ordinances. After its
141 adoption, the code shall be certified to by the mayor and clerk of
142 the municipality, and shall be filed as a permanent record in the
143 office of the clerk, who shall not be required to transcribe and



144 record the same in the ordinance book as other ordinances. It
145 shall not be necessary that the ordinance adopting the code or the
146 code itself be published in full, but notice of the adoption of
147 the code shall be given by publication in some newspaper of the
148 municipality for one (1) time, or if there be no such newspaper,
149 by posting at three (3) or more public places within the corporate
150 limits, a notice in substantially the following form:

151 Notice is given that the city (or town or village) of
152 _____, on the (give date of ordinance adopting code), adopted
153 (state type of code and other information serving to identify the
154 same) code.

155 (2) If the governing authority of any municipality adopts or
156 has adopted construction codes which do not have proper provisions
157 to maintain up-to-date amendments, specifications in such codes
158 for cements used in portland cement concrete shall be superseded
159 by nationally recognized specifications referenced in any code
160 adopted by the Mississippi Building Code Council.

161 (3) All the provisions of this section shall apply to
162 amendments and revisions of the code mentioned in this section.
163 Any code adopted in accordance with this section shall not be in
164 force for one (1) month after its passage, unless the municipal
165 authorities in the ordinance authorize to the contrary. The
166 provisions of this section shall be in addition and supplemental
167 to any existing laws authorizing the adoption, amendment or
168 revision of municipal ordinances or codes.



169 (4) Notwithstanding any provision of this section to the
170 contrary, any code adopted by a municipality before or after April
171 12, 2001, is subject to the provisions of Section 41-26-14(10).

172 (5) Notwithstanding any provision of this section to the
173 contrary, the governing authorities of each municipality in
174 Jackson, Harrison, Hancock, Stone and Pearl River Counties shall
175 enforce the requirements imposed under Section 17-2-1 as provided
176 in such section.

177 * * *

178 (* * *6) The provisions of this section shall apply to all
179 municipalities of this state, whether operating under the code
180 charter, a special charter, commission form, or other form of
181 government.

182 **SECTION 4.** This act shall take effect and be in force from
183 and after its passage.

