

By: Senator(s) Suber, McCaughn

To: County Affairs;  
Municipalities

SENATE BILL NO. 2726

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.** Section 19-5-9, Mississippi Code of 1972, is  
7 amended as follows:

8 19-5-9. (1) The construction codes published by a  
9 nationally recognized code group which sets minimum standards and  
10 has the proper provisions to maintain up-to-date amendments are  
11 adopted as minimum standard guides for building, plumbing,  
12 electrical, gas, sanitary, and other related codes in Mississippi.  
13 Any county within the State of Mississippi, in the discretion of  
14 the board of supervisors, may adopt building codes, plumbing  
15 codes, electrical codes, sanitary codes, or other related codes  
16 dealing with general public health, safety or welfare, or a  
17 combination of the same, within but not exceeding the provisions  
18 of the construction codes published by nationally recognized code  
19 groups, by order or resolution in the manner prescribed in this



20 section, but those codes so adopted shall apply only to the  
21 unincorporated areas of the county. However, those codes shall  
22 not apply to the erection, maintenance, repair or extension of  
23 farm buildings or farm structures, except as may be required under  
24 the terms of the "Flood Disaster Protection Act of 1973," and  
25 shall apply to a master planned community as defined in Section  
26 19-5-10 only to the extent allowed in Section 19-5-10. The  
27 provisions of this section shall not be construed to authorize the  
28 adoption of any code which applies to the installation, repair or  
29 maintenance of electric wires, pipelines, apparatus, equipment or  
30 devices by or for a utility rendering public utility services,  
31 required by it to be utilized in the rendition of its duly  
32 authorized service to the public. Before any such code shall be  
33 adopted, it shall be either printed or typewritten and shall be  
34 presented in pamphlet form to the board of supervisors at a  
35 regular meeting. The order or resolution adopting the code shall  
36 not set out the code in full, but shall merely identify the same.  
37 The vote or passage of the order or resolution shall be the same  
38 as on any other order or resolution. After its adoption, the code  
39 or codes shall be certified to by the president and clerk of the  
40 board of supervisors and shall be filed as a permanent record in  
41 the office of the clerk who shall not be required to transcribe  
42 and record the same in the minute book as other orders and  
43 resolutions.



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

50 (3) All provisions of this section shall apply to amendments  
51 and revisions of the codes mentioned in this section. The  
52 provisions of this section shall be in addition and supplemental  
53 to any existing laws authorizing the adoption, amendment or  
54 revision of county orders, resolutions or codes.

55 (4) Any code adopted under the provisions of this section  
56 shall not be in operation or force until sixty (60) days have  
57 elapsed from the adoption of same; however, any code adopted for  
58 the immediate preservation of the public health, safety and  
59 general welfare may be effective from and after its adoption by a  
60 unanimous vote of the members of the board. Within five (5) days  
61 after the adoption or passage of an order or resolution adopting  
62 that code or codes the clerk of the board of supervisors shall  
63 publish in a legal newspaper published in the county the full text  
64 of the order or resolution adopting and approving the code, and  
65 the publication shall be inserted at least three (3) times, and  
66 shall be completed within thirty (30) days after the passage of  
67 the order or resolution.



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

91 (6) After any such code shall take effect the board of  
92 supervisors is authorized to employ such directors and other



93 personnel as the board, in its discretion, deems necessary and to  
94 expend general county funds or any other funds available to the  
95 board to fulfill the purposes of this section.

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

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

112 (9) Notwithstanding any provision of this section to the  
113 contrary, any code adopted by a county before or after April 12,  
114 2001, is subject to the provisions of Section 41-26-14(10).

115 (10) Notwithstanding any provision of this section to the  
116 contrary, the Boards of Supervisors of Jackson, Harrison, Hancock,



117 Stone and Pearl River Counties shall enforce the requirements  
118 imposed under Section 17-2-1 as provided in such section.

119 \* \* \*

120 **SECTION 2.** Section 21-19-25, Mississippi Code of 1972, is  
121 amended as follows:

122 21-19-25. (1) Any municipality within the State of  
123 Mississippi may, in the discretion of its governing authority,  
124 adopt building codes, plumbing codes, electrical codes, gas codes,  
125 sanitary codes, or any other codes dealing with general public  
126 health, safety or welfare, or a combination of the same, by  
127 ordinance, in the manner prescribed in this section. Before any  
128 such code shall be adopted, it shall be either printed or  
129 typewritten, and it shall be presented in pamphlet form to the  
130 governing authority of the municipality at a regular meeting. The  
131 ordinance adopting the code shall not set out the code in full,  
132 but shall merely identify the same. The vote on passage of the  
133 ordinance shall be the same as on any other ordinances. After its  
134 adoption, the code shall be certified to by the mayor and clerk of  
135 the municipality, and shall be filed as a permanent record in the  
136 office of the clerk, who shall not be required to transcribe and  
137 record the same in the ordinance book as other ordinances. It  
138 shall not be necessary that the ordinance adopting the code or the  
139 code itself be published in full, but notice of the adoption of  
140 the code shall be given by publication in some newspaper of the  
141 municipality for one (1) time, or if there be no such newspaper,



142 by posting at three (3) or more public places within the corporate  
143 limits, a notice in substantially the following form:

144 Notice is given that the city (or town or village) of  
145 \_\_\_\_\_, on the (give date of ordinance adopting code), adopted  
146 (state type of code and other information serving to identify the  
147 same) code.

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

154 (3) All the provisions of this section shall apply to  
155 amendments and revisions of the code mentioned in this section.  
156 Any code adopted in accordance with this section shall not be in  
157 force for one (1) month after its passage, unless the municipal  
158 authorities in the ordinance authorize to the contrary. The  
159 provisions of this section shall be in addition and supplemental  
160 to any existing laws authorizing the adoption, amendment or  
161 revision of municipal ordinances or codes.

162 (4) Notwithstanding any provision of this section to the  
163 contrary, any code adopted by a municipality before or after April  
164 12, 2001, is subject to the provisions of Section 41-26-14(10).

165 (5) Notwithstanding any provision of this section to the  
166 contrary, the governing authorities of each municipality in



167 Jackson, Harrison, Hancock, Stone and Pearl River Counties shall  
168 enforce the requirements imposed under Section 17-2-1 as provided  
169 in such section.

170 \* \* \*

171 ( \* \* \*6) The provisions of this section shall apply to all  
172 municipalities of this state, whether operating under the code  
173 charter, a special charter, commission form, or other form of  
174 government.

175 **SECTION 3.** This act shall take effect and be in force from  
176 and after its passage.

