

By: Representatives Denny, Holland, Hudson, Markham, Miles, Moore (60th), Ward

To: Public Health and Welfare; Municipalities

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 692

1 AN ACT TO AMEND SECTION 41-26-14, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT ANY PROFESSIONALLY INSTALLED LAWN SPRINKLER
3 SYSTEM, LAWN IRRIGATION SYSTEM, SWIMMING POOL, WATER FOUNTAIN OR
4 COOLER, OR FIRE SPRINKLER SYSTEM CONTAINING ONLY WATER THAT IS
5 CONNECTED TO A PUBLIC WATER SYSTEM SHALL BE CONSIDERED AS A LOW
6 HAZARD CROSS CONNECTION POSING A VERY LOW RISK AND SHALL NOT BE
7 REQUIRED TO HAVE A BACKFLOW PREVENTER; TO PROVIDE THAT ADDITIONAL
8 BACKFLOW PREVENTERS SHALL NOT BE REQUIRED FOR CARBONATED BEVERAGE
9 DISPENSERS IF THEY ALREADY HAVE CERTAIN BACKFLOW PREVENTERS
10 INSTALLED; TO DELETE THE REQUIREMENT THAT PROPERTY OWNERS MUST
11 INSTALL APPROVED BACKFLOW PREVENTERS; TO DELETE THE REQUIREMENT
12 THAT PREVIOUSLY-INSTALLED BACKFLOW PREVENTERS MUST BE TESTED; TO
13 DELETE THE REQUIREMENT THAT LOW HAZARD BACKFLOW PREVENTERS MUST BE
14 INSPECTED AND TESTED AT LEAST BIENNIALY AND MUST BE TESTED AFTER
15 A REPAIR OR A REPLACEMENT INSTALLATION; TO DELETE THE PROVISION
16 SETTING A MAXIMUM FEE THAT CERTIFIED BACKFLOW PREVENTER TESTERS
17 MAY CHARGE FOR INSPECTING AND TESTING OF LOW HAZARD BACKFLOW
18 PREVENTERS; TO PROHIBIT ANY MUNICIPALITY, COUNTY OR PUBLIC WATER
19 SYSTEM FROM ADOPTING OR IMPLEMENTING ANY ORDINANCE, REGULATION OR
20 POLICY REGARDING CROSS CONNECTIONS OR BACKFLOW PREVENTERS THAT IS
21 MORE STRINGENT THAN OR IN CONFLICT WITH THE PROVISIONS OF THIS
22 SECTION; TO PROVIDE THAT ANY SUCH ORDINANCE, REGULATION OR POLICY
23 ADOPTED BEFORE THE EFFECTIVE DATE OF THIS ACT IS VOID; TO PROVIDE
24 THAT IF ANY MUNICIPALITY OR COUNTY ADOPTS A BUILDING CODE,
25 PLUMBING CODE OR ANY OTHER CODE THAT CONTAINS REQUIREMENTS OR
26 STANDARDS REGARDING CROSS CONNECTIONS OR BACKFLOW PREVENTERS, THE
27 MUNICIPALITY OR COUNTY OR ANY PUBLIC WATER SYSTEM OPERATING IN THE
28 MUNICIPALITY OR COUNTY IS PROHIBITED FROM IMPLEMENTING OR
29 ENFORCING ANY SUCH REQUIREMENTS OR STANDARDS THAT ARE MORE
30 STRINGENT THAN OR IN CONFLICT WITH THE PROVISIONS OF THIS SECTION;
31 TO AMEND SECTIONS 19-5-9 AND 21-19-25, MISSISSIPPI CODE OF 1972,
32 TO CONFORM TO THE PRECEDING PROVISIONS; AND FOR RELATED PURPOSES.

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

34 SECTION 1. Section 41-26-14, Mississippi Code of 1972, is
35 amended as follows:

36 41-26-14. (1) The department shall develop and implement a
37 cross connection control program in accordance with this section.
38 Before development of the cross connection control program, the
39 department shall consult with the United States Environmental
40 Protection Agency regarding the development of a federal cross
41 connection control program. It is the intent of the Legislature
42 that any cross connection control program developed and



43 implemented by the department be equivalent to a federal program,
44 unless otherwise provided in this section. * * *

45 (2) (a) The board shall adopt regulations defining a high
46 hazard cross connection and a low hazard cross connection. The
47 board shall determine which low hazard cross connections pose a
48 very low risk and therefore are below regulatory concern. Those
49 low hazard cross connections posing a very low risk shall be
50 exempt from the requirements of this section and shall not be
51 required to have a backflow preventer. In addition, the
52 regulations shall specify those backflow preventers which are
53 recommended to address both high hazard and low hazard cross
54 connections.

55 (b) For the purposes of this section, the following
56 cross connections shall be considered as low hazard cross
57 connections posing a very low risk:

58 (i) Any lawn sprinkler system or lawn irrigation
59 system that is connected to a public water system and was
60 professionally installed, regardless of whether the system is
61 underground or above ground or whether the system has pop-up
62 sprinkler heads;

63 (ii) Any swimming pool that is connected to a
64 public water system and was professionally installed, regardless
65 of whether the pool is underground or above ground;

66 (iii) Any water fountain or cooler that is
67 connected to a public water system and was professionally
68 installed; and

69 (iv) Any fire sprinkler system that contains only
70 water and no chemicals, that is connected to a public water system
71 and was professionally installed.

72 (c) Any regulations that were adopted before the
73 effective date of House Bill No. 692, 2001 Regular Session, to
74 implement a cross connection control program shall be void to the



75 extent those regulations are in conflict or inconsistent with this
76 section.

77 (3) Before December 31, 2000, each public water system shall
78 develop and implement a cross connection control program and shall
79 conduct a survey and on-site visits, as necessary, to locate cross
80 connections within its system. Single family dwellings and
81 multifamily dwellings designed to house not more than eight (8)
82 families shall be excluded from the survey, unless the public
83 water system has reason to believe a cross connection exists.

84 (4) Before June 30, 2001, each property owner identified by
85 the public water system as having a high hazard cross connection
86 shall install a backflow preventer. If the property owner already
87 has a backflow preventer installed and the backflow preventer
88 functions properly, the public water system shall consider the
89 backflow preventer approved and shall allow the installed backflow
90 preventer to remain in place until the backflow preventer fails to
91 function properly. Additional backflow preventers shall not be
92 required for carbonated beverage dispensers if (a) the water
93 supply connection to the carbonated beverage dispenser is
94 protected against backflow by a backflow preventer conforming to
95 ASSE 1022 or by an air gap, and (b) the backflow preventer device
96 and the piping downstream from the device are not affected by
97 carbon dioxide gas.

98 (5) Before June 30, 2004, each property owner identified by
99 the public water system as having a low hazard cross connection
100 shall install a backflow preventer. This requirement does not
101 apply to any low hazard cross connection that poses a very low
102 risk. If the property owner already has a backflow preventer
103 installed and the backflow preventer functions properly, the
104 public water system shall consider the backflow preventer approved
105 and shall allow the installed backflow preventer to remain in
106 place until the backflow preventer fails to function properly.



107 (6) Each high hazard backflow preventer shall be inspected
108 and tested at least annually. * * * If a high hazard backflow
109 preventer fails to function properly, the property owner shall
110 have the backflow preventer repaired and retested or shall install
111 a new approved backflow preventer within thirty (30) days of the
112 initial test. If a low hazard backflow preventer fails to
113 function properly, the property owner shall have the backflow
114 preventer repaired * * * or shall install a new * * * backflow
115 preventer within ninety (90) days after the date the backflow
116 preventer first fails to function property.

117 (7) All inspection and testing of backflow preventers under
118 this section shall be conducted by a certified tester, unless
119 otherwise provided in the regulations of the board. Certified
120 backflow preventer testers shall be licensed by the department
121 under those conditions as the department deems appropriate. * * *

122 (8) If a property owner fails to install a backflow
123 preventer or fails to have a backflow preventer tested as required
124 by this section, the public water system may discontinue service
125 to that property owner until the failure is corrected.

126 (9) After the dates specified in subsections (4) and (5) of
127 this section, it is unlawful to install or allow the installation
128 or maintenance of any cross connection, auxiliary intake or
129 bypass, unless the source and quality of water from the auxiliary
130 supply, the method of connection and the use and operation of that
131 cross connection, auxiliary intake or bypass has been approved by
132 the director. However, this subsection does not authorize the
133 director to modify, supersede or suspend any provision of this
134 section regarding backflow preventers.

135 (10) (a) A municipality, county or public water system
136 shall not adopt or implement any ordinance, rule, regulation,
137 standard or policy regarding cross connections or backflow
138 preventers that is more stringent or extensive in scope, coverage
139 or effect than the provisions of this section, or is in conflict



140 or inconsistent with the provisions of this section. Any such
141 ordinance, rule, regulation, standard or policy regarding cross
142 connections or backflow preventers that was adopted before the
143 effective date of House Bill No. 692, 2001 Regular Session, is
144 void to the extent that it is more stringent or extensive in
145 scope, coverage or effect than the provisions of this section, or
146 is in conflict or inconsistent with the provisions of this
147 section.

148 (b) If any municipality or county adopts or has
149 previously adopted a building code, plumbing code or any other
150 code that contains requirements or standards regarding cross
151 connections or backflow preventers, the municipality or county or
152 any public water system operating in the municipality or county
153 shall not implement or enforce any such requirements or standards
154 that are more stringent or extensive in scope, coverage or effect
155 than the provisions of this section, or are in conflict or
156 inconsistent with the provisions of this section.

157 SECTION 2. Section 19-5-9, Mississippi Code of 1972, is
158 amended as follows:

159 19-5-9. The construction codes published by a nationally
160 recognized code group which sets minimum standards and has the
161 proper provisions to maintain up-to-date amendments are * * *
162 adopted as minimum standard guides for building, plumbing,
163 electrical, gas, sanitary, and other related codes in Mississippi.
164 Any county within the State of Mississippi, in the discretion of
165 the board of supervisors, may adopt building codes, plumbing
166 codes, electrical codes, sanitary codes, or other related codes
167 dealing with general public health, safety or welfare, or a
168 combination of the same, within but not exceeding the provisions
169 of the construction codes published by nationally recognized code
170 groups, by order or resolution in the manner * * * prescribed in
171 this section, but those codes so adopted shall apply only to the
172 unincorporated areas of the county. However, those codes shall



173 not apply to the erection, maintenance, repair or extension of
174 farm buildings or farm structures, except as may be required under
175 the terms of the "Flood Disaster Protection Act of 1973" and shall
176 apply to a master planned community as defined in Section 19-5-10,
177 only to the extent allowed in Section 19-5-10. The provisions of
178 this section shall not be construed to authorize the adoption of
179 any code which applies to the installation, repair or maintenance
180 of electric wires, pipelines, apparatus, equipment or devices by
181 or for a utility rendering public utility services, required by it
182 to be utilized in the rendition of its duly authorized service to
183 the public. Before any such code shall be adopted, it shall be
184 either printed or typewritten and shall be presented in pamphlet
185 form to the board of supervisors at a regular meeting. The order
186 or resolution adopting the code shall not set out the code in
187 full, but shall merely identify the same. The vote or passage of
188 the order or resolution shall be the same as on any other order or
189 resolution. After its adoption, the code or codes shall be
190 certified to by the president and clerk of the board of
191 supervisors and shall be filed as a permanent record in the office
192 of the clerk who shall not be required to transcribe and record
193 the same in the minute book as other orders and resolutions.

194 All provisions of this section shall apply to amendments and
195 revisions of the codes mentioned in this section. The provisions
196 of this section shall be in addition and supplemental to any
197 existing laws authorizing the adoption, amendment or revision of
198 county orders, resolutions or codes.

199 Any code adopted under the provisions of this section shall
200 not be in operation or force until sixty (60) days have elapsed
201 from the adoption of same; however, any code adopted for the
202 immediate preservation of the public health, safety and general
203 welfare may be effective from and after its adoption by a
204 unanimous vote of the members of the board. Within five (5) days
205 after the adoption or passage of an order or resolution adopting



206 that code or codes the clerk of the board of supervisors shall
207 publish in a legal newspaper published in the county the full text
208 of the order or resolution adopting and approving the code, and
209 the publication shall be inserted at least three (3) times, and
210 shall be completed within thirty (30) days after the passage of
211 the order or resolution.

212 Any person or persons objecting to the code or codes may
213 object in writing to the provisions of the code or codes within
214 sixty (60) days after the passage of the order or resolution
215 approving same, and if the board of supervisors adjudicates that
216 ten percent (10%) or more of the qualified electors residing in
217 the affected unincorporated areas of the county have objected in
218 writing to the code or codes, then in such event the code shall be
219 inoperative and not in effect unless adopted for the immediate
220 preservation of the public health, safety and general welfare
221 until approved by a special election called by the board of
222 supervisors as other special elections are called and conducted by
223 the election commissioners of the county as other special
224 elections are conducted, the special election to be participated
225 in by all the qualified electors of the county residing in the
226 unincorporated areas of the county. If the voters approve the
227 code or codes in the special election it shall be in force and in
228 operation thereafter until amended or modified as * * * provided
229 in this section. If the majority of the qualified electors voting
230 in the special election vote against the code or codes, then, in
231 such event, the code or codes shall be void and of no force and
232 effect, and no other code or codes dealing with that subject shall
233 be adopted under the provisions of this section until at least two
234 (2) years thereafter.

235 After any such code shall take effect the board of
236 supervisors is authorized to employ such directors and other
237 personnel as the board, in its discretion, deems necessary and to



238 expend general county funds or any other funds available to the
239 board to fulfill the purposes of this section.

240 For the purpose of promoting health, safety, morals or the
241 general welfare of the community, the governing authority of any
242 municipality, and, with respect to the unincorporated part of any
243 county, the governing authority of any county, in its discretion,
244 are empowered to regulate the height, number of stories and size
245 of building and other structures, the percentage of lot that may
246 be occupied, the size of the yards, courts and other open spaces,
247 the density or population, and the location and use of buildings,
248 structures and land for trade, industry, residence or other
249 purposes, but no permits shall be required except as may be
250 required under the terms of the "Flood Disaster Protection Act of
251 1973" for the erection, maintenance, repair or extension of farm
252 buildings or farm structures outside the corporate limits of
253 municipalities.

254 The authority * * * granted in this section is cumulative and
255 supplemental to any other authority granted by law.

256 Notwithstanding any provision of this section to the
257 contrary, any code adopted by a county before or after the
258 effective date of House Bill No. 692, 2001 Regular Session, is
259 subject to the provisions of Section 41-26-14(10).

260 SECTION 3. Section 21-19-25, Mississippi Code of 1972, is
261 amended as follows:

262 21-19-25. Any municipality within the State of Mississippi
263 may, in the discretion of its governing authorities, adopt
264 building codes, plumbing codes, electrical codes, gas codes,
265 sanitary codes, or any other codes dealing with general public
266 health, safety or welfare, or a combination of the same, by
267 ordinance, in the manner * * * prescribed in this section. Before
268 any such code shall be adopted, it shall be either printed or
269 typewritten, and it shall be presented in pamphlet form to the
270 governing authorities of the municipality at a regular meeting.



271 The ordinance adopting the code shall not set out the code in
272 full, but shall merely identify the same. The vote on passage of
273 the ordinance shall be the same as on any other ordinances. After
274 its adoption, the code shall be certified to by the mayor and
275 clerk of the municipality, and shall be filed as a permanent
276 record in the office of the clerk, who shall not be required to
277 transcribe and record the same in the ordinance book as other
278 ordinances. It shall not be necessary that the ordinance adopting
279 the code or the code itself be published in full, but notice of
280 the adoption of the code shall be given by publication in some
281 newspaper of the municipality for one (1) time, or if there be no
282 such newspaper, by posting at three (3) or more public places
283 within the corporate limits, a notice in substantially the
284 following form:

285 Notice is * * * given that the city (or town or
286 village) of _____, on the (give date of ordinance
287 adopting code), adopted (state type of code and other
288 information serving to identify the same) code.

289 All the provisions of this section shall apply to amendments
290 and revisions of the code mentioned in this section. Any code
291 adopted in accordance with this section shall not be in force for
292 one month after its passage, unless the municipal authorities in
293 the ordinance authorize to the contrary. The provisions of this
294 section shall be in addition and supplemental to any existing laws
295 authorizing the adoption, amendment or revision of municipal
296 ordinances or codes.

297 Notwithstanding any provision of this section to the
298 contrary, any code adopted by a municipality before or after the
299 effective date of House Bill No. 692, 2001 Regular Session, is
300 subject to the provisions of Section 41-26-14(10).

301 The provisions of this section shall apply to all
302 municipalities of this state, whether operating under the code



303 charter, a special charter, commission form, or other form of
304 government.

305 SECTION 4. This act shall take effect and be in force from
306 and after its passage.

