

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

To: Public Health and Welfare; Municipalities

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

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

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

33 41-26-14. (1) The department shall develop and implement a  
34 cross connection control program in accordance with this section.  
35 Before development of the cross connection control program, the  
36 department shall consult with the United States Environmental  
37 Protection Agency regarding the development of a federal cross  
38 connection control program. It is the intent of the Legislature

39 that any cross connection control program developed and  
40 implemented by the department be equivalent to a federal program,  
41 unless otherwise provided in this section. \* \* \*

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

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

55 (i) Any lawn sprinkler system or lawn irrigation  
56 system that is located on residential property, is connected to a  
57 public water system, and was professionally installed on the  
58 property, regardless of whether the system is underground or above  
59 ground or whether the system has pop-up sprinkler heads; and

60 (ii) Any swimming pool that is located on  
61 residential property, is connected to a public water system, and  
62 was professionally installed on the property, regardless of  
63 whether the pool is underground or above ground.

64 (c) Any regulations that were adopted before the  
65 effective date of House Bill No. , 2001 Regular Session, to  
66 implement a cross connection control program shall be void to the  
67 extent those regulations are in conflict or inconsistent with this  
68 section.

69 (3) Before December 31, 2000, each public water system shall  
70 develop and implement a cross connection control program and shall  
71 conduct a survey and on-site visits, as necessary, to locate cross

72 connections within its system. Single family dwellings and  
73 multifamily dwellings designed to house not more than eight (8)  
74 families shall be excluded from the survey, unless the public  
75 water system has reason to believe a cross connection exists.

76 (4) Before June 30, 2001, each property owner identified by  
77 the public water system as having a high hazard cross connection  
78 shall install a backflow preventer. If the property owner already  
79 has a backflow preventer installed and the backflow preventer  
80 functions properly, the public water system shall consider the  
81 backflow preventer approved and shall allow the installed backflow  
82 preventer to remain in place until the backflow preventer fails to  
83 function properly.

84 (5) Before June 30, 2004, each property owner identified by  
85 the public water system as having a low hazard cross connection  
86 shall install a backflow preventer. This requirement does not  
87 apply to any low hazard cross connection that poses a very low  
88 risk. If the property owner already has a backflow preventer  
89 installed and the backflow preventer functions properly, the  
90 public water system shall consider the backflow preventer approved  
91 and shall allow the installed backflow preventer to remain in  
92 place until the backflow preventer fails to function properly.

93 (6) Each high hazard backflow preventer shall be inspected  
94 and tested at least annually. \* \* \* If a high hazard backflow  
95 preventer fails to function properly, the property owner shall  
96 have the backflow preventer repaired and retested or shall install  
97 a new approved backflow preventer within thirty (30) days of the  
98 initial test. If a low hazard backflow preventer fails to  
99 function properly, the property owner shall have the backflow  
100 preventer repaired \* \* \* or shall install a new \* \* \* backflow  
101 preventer within ninety (90) days after the date the backflow  
102 preventer first fails to function property.

103 (7) All inspection and testing of backflow preventers under  
104 this section shall be conducted by a certified tester, unless

105 otherwise provided in the regulations of the board. Certified  
106 backflow preventer testers shall be licensed by the department  
107 under those conditions as the department deems appropriate. \* \* \*

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

112 (9) After the dates specified in subsections (4) and (5) of  
113 this section, it is unlawful to install or allow the installation  
114 or maintenance of any cross connection, auxiliary intake or  
115 bypass, unless the source and quality of water from the auxiliary  
116 supply, the method of connection and the use and operation of that  
117 cross connection, auxiliary intake or bypass has been approved by  
118 the director. However, this subsection does not authorize the  
119 director to modify, supersede or suspend any provision of this  
120 section regarding backflow preventers.

121 (10) (a) A municipality, county or public water system  
122 shall not adopt or implement any ordinance, rule, regulation,  
123 standard or policy regarding cross connections or backflow  
124 preventers that is more stringent or extensive in scope, coverage  
125 or effect than the provisions of this section, or is in conflict  
126 or inconsistent with the provisions of this section. Any such  
127 ordinance, rule, regulation, standard or policy regarding cross  
128 connections or backflow preventers that was adopted before the  
129 effective date of House Bill No. , 2001 Regular Session, is  
130 void to the extent that it is more stringent or extensive in  
131 scope, coverage or effect than the provisions of this section, or  
132 is in conflict or inconsistent with the provisions of this  
133 section.

134 (b) If any municipality or county adopts or has  
135 previously adopted a building code, plumbing code or any other  
136 code that contains requirements or standards regarding cross  
137 connections or backflow preventers, the municipality or county or

138 any public water system operating in the municipality or county  
139 shall not implement or enforce any such requirements or standards  
140 that are more stringent or extensive in scope, coverage or effect  
141 than the provisions of this section, or are in conflict or  
142 inconsistent with the provisions of this section.

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

145 19-5-9. The construction codes published by a nationally  
146 recognized code group which sets minimum standards and has the  
147 proper provisions to maintain up-to-date amendments are \* \* \*  
148 adopted as minimum standard guides for building, plumbing,  
149 electrical, gas, sanitary, and other related codes in Mississippi.  
150 Any county within the State of Mississippi, in the discretion of  
151 the board of supervisors, may adopt building codes, plumbing  
152 codes, electrical codes, sanitary codes, or other related codes  
153 dealing with general public health, safety or welfare, or a  
154 combination of the same, within but not exceeding the provisions  
155 of the construction codes published by nationally recognized code  
156 groups, by order or resolution in the manner \* \* \* prescribed in  
157 this section, but those codes so adopted shall apply only to the  
158 unincorporated areas of the county. However, those codes shall  
159 not apply to the erection, maintenance, repair or extension of  
160 farm buildings or farm structures, except as may be required under  
161 the terms of the "Flood Disaster Protection Act of 1973" and shall  
162 apply to a master planned community as defined in Section 19-5-10,  
163 only to the extent allowed in Section 19-5-10. The provisions of  
164 this section shall not be construed to authorize the adoption of  
165 any code which applies to the installation, repair or maintenance  
166 of electric wires, pipelines, apparatus, equipment or devices by  
167 or for a utility rendering public utility services, required by it  
168 to be utilized in the rendition of its duly authorized service to  
169 the public. Before any such code shall be adopted, it shall be  
170 either printed or typewritten and shall be presented in pamphlet

171 form to the board of supervisors at a regular meeting. The order  
172 or resolution adopting the code shall not set out the code in  
173 full, but shall merely identify the same. The vote or passage of  
174 the order or resolution shall be the same as on any other order or  
175 resolution. After its adoption, the code or codes shall be  
176 certified to by the president and clerk of the board of  
177 supervisors and shall be filed as a permanent record in the office  
178 of the clerk who shall not be required to transcribe and record  
179 the same in the minute book as other orders and resolutions.

180 All provisions of this section shall apply to amendments and  
181 revisions of the codes mentioned in this section. The provisions  
182 of this section shall be in addition and supplemental to any  
183 existing laws authorizing the adoption, amendment or revision of  
184 county orders, resolutions or codes.

185 Any code adopted under the provisions of this section shall  
186 not be in operation or force until sixty (60) days have elapsed  
187 from the adoption of same; however, any code adopted for the  
188 immediate preservation of the public health, safety and general  
189 welfare may be effective from and after its adoption by a  
190 unanimous vote of the members of the board. Within five (5) days  
191 after the adoption or passage of an order or resolution adopting  
192 that code or codes the clerk of the board of supervisors shall  
193 publish in a legal newspaper published in the county the full text  
194 of the order or resolution adopting and approving the code, and  
195 the publication shall be inserted at least three (3) times, and  
196 shall be completed within thirty (30) days after the passage of  
197 the order or resolution.

198 Any person or persons objecting to the code or codes may  
199 object in writing to the provisions of the code or codes within  
200 sixty (60) days after the passage of the order or resolution  
201 approving same, and if the board of supervisors adjudicates that  
202 ten percent (10%) or more of the qualified electors residing in  
203 the affected unincorporated areas of the county have objected in

204 writing to the code or codes, then in such event the code shall be  
205 inoperative and not in effect unless adopted for the immediate  
206 preservation of the public health, safety and general welfare  
207 until approved by a special election called by the board of  
208 supervisors as other special elections are called and conducted by  
209 the election commissioners of the county as other special  
210 elections are conducted, the special election to be participated  
211 in by all the qualified electors of the county residing in the  
212 unincorporated areas of the county. If the voters approve the  
213 code or codes in the special election it shall be in force and in  
214 operation thereafter until amended or modified as \* \* \* provided  
215 in this section. If the majority of the qualified electors voting  
216 in the special election vote against the code or codes, then, in  
217 such event, the code or codes shall be void and of no force and  
218 effect, and no other code or codes dealing with that subject shall  
219 be adopted under the provisions of this section until at least two  
220 (2) years thereafter.

221 After any such code shall take effect the board of  
222 supervisors is authorized to employ such directors and other  
223 personnel as the board, in its discretion, deems necessary and to  
224 expend general county funds or any other funds available to the  
225 board to fulfill the purposes of this section.

226 For the purpose of promoting health, safety, morals or the  
227 general welfare of the community, the governing authority of any  
228 municipality, and, with respect to the unincorporated part of any  
229 county, the governing authority of any county, in its discretion,  
230 are empowered to regulate the height, number of stories and size  
231 of building and other structures, the percentage of lot that may  
232 be occupied, the size of the yards, courts and other open spaces,  
233 the density or population, and the location and use of buildings,  
234 structures and land for trade, industry, residence or other  
235 purposes, but no permits shall be required except as may be  
236 required under the terms of the "Flood Disaster Protection Act of

237 1973" for the erection, maintenance, repair or extension of farm  
238 buildings or farm structures outside the corporate limits of  
239 municipalities.

240 The authority \* \* \* granted in this section is cumulative and  
241 supplemental to any other authority granted by law.

242 Notwithstanding any provision of this section to the  
243 contrary, any code adopted by a county before or after the  
244 effective date of House Bill No. , 2001 Regular Session, is  
245 subject to the provisions of Section 41-26-4(10).

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

248 21-19-25. Any municipality within the State of Mississippi  
249 may, in the discretion of its governing authorities, adopt  
250 building codes, plumbing codes, electrical codes, gas codes,  
251 sanitary codes, or any other codes dealing with general public  
252 health, safety or welfare, or a combination of the same, by  
253 ordinance, in the manner \* \* \* prescribed in this section. Before  
254 any such code shall be adopted, it shall be either printed or  
255 typewritten, and it shall be presented in pamphlet form to the  
256 governing authorities of the municipality at a regular meeting.  
257 The ordinance adopting the code shall not set out the code in  
258 full, but shall merely identify the same. The vote on passage of  
259 the ordinance shall be the same as on any other ordinances. After  
260 its adoption, the code shall be certified to by the mayor and  
261 clerk of the municipality, and shall be filed as a permanent  
262 record in the office of the clerk, who shall not be required to  
263 transcribe and record the same in the ordinance book as other  
264 ordinances. It shall not be necessary that the ordinance adopting  
265 the code or the code itself be published in full, but notice of  
266 the adoption of the code shall be given by publication in some  
267 newspaper of the municipality for one (1) time, or if there be no  
268 such newspaper, by posting at three (3) or more public places



269 within the corporate limits, a notice in substantially the  
270 following form:

271 Notice is \* \* \* given that the city (or town or  
272 village) of \_\_\_\_\_, on the (give date of ordinance  
273 adopting code), adopted (state type of code and other  
274 information serving to identify the same) code.

275 All the provisions of this section shall apply to amendments  
276 and revisions of the code mentioned in this section. Any code  
277 adopted in accordance with this section shall not be in force for  
278 one month after its passage, unless the municipal authorities in  
279 the ordinance authorize to the contrary. The provisions of this  
280 section shall be in addition and supplemental to any existing laws  
281 authorizing the adoption, amendment or revision of municipal  
282 ordinances or codes.

283 Notwithstanding any provision of this section to the  
284 contrary, any code adopted by a municipality before or after the  
285 effective date of House Bill No. \_\_\_\_\_, 2001 Regular Session, is  
286 subject to the provisions of Section 41-26-4(10).

287 The provisions of this section shall apply to all  
288 municipalities of this state, whether operating under the code  
289 charter, a special charter, commission form, or other form of  
290 government.

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