

By: Representative Malone

To: County Affairs;
Municipalities

HOUSE BILL NO. 1263

1 AN ACT TO AMEND SECTIONS 19-5-9 AND 21-19-25, MISSISSIPPI
2 CODE OF 1972, TO SET A FEE ON THE AMOUNT A COUNTY OR MUNICIPALITY
3 CAN CHARGE FOR A PLUMBING OR ELECTRICAL PERMIT; TO AMEND SECTION
4 31-3-13, MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR RELATED
5 PURPOSES.

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

7 SECTION 1. Section 19-5-9, Mississippi Code of 1972, is
8 amended as follows:

9 19-5-9. The construction codes published by a nationally
10 recognized code group which sets minimum standards and has the
11 proper provisions to maintain up-to-date amendments are hereby
12 adopted as minimum standard guides for building, plumbing,
13 electrical, gas, sanitary, and other related codes in Mississippi.
14 Any county within the State of Mississippi, in the discretion of
15 the board of supervisors, may adopt building codes, plumbing
16 codes, electrical codes, sanitary codes, or other related codes
17 dealing with general public health, safety or welfare, or a
18 combination of the same, within but not exceeding the provisions
19 of the construction codes published by nationally recognized code
20 groups, by order or resolution in the manner herein prescribed,
21 but said codes so adopted shall apply only to the unincorporated
22 areas of the county. However, such codes shall not apply to the
23 erection, maintenance, repair or extension of farm buildings or
24 farm structures, except as may be required under the terms of the
25 "Flood Disaster Protection Act of 1973" and shall apply to a
26 master planned community as defined in Section 19-5-10, only to
27 the extent allowed in Section 19-5-10. The provisions of this

29 code which applies to the installation, repair or maintenance of
30 electric wires, pipelines, apparatus, equipment or devices by or
31 for a utility rendering public utility services, required by it to
32 be utilized in the rendition of its duly authorized service to the
33 public. Before any such code shall be adopted, it shall be either
34 printed or typewritten and shall be presented in pamphlet form to
35 the board of supervisors at a regular meeting. The order or
36 resolution adopting such code shall not set out said code in full,
37 but shall merely identify the same. The vote or passage of the
38 order or resolution shall be the same as on any other order or
39 resolution. After its adoption, such code or codes shall be
40 certified to by the president and clerk of the board of
41 supervisors and shall be filed as a permanent record in the office
42 of the clerk who shall not be required to transcribe and record
43 the same in the minute book as other orders and resolutions.

44 All provisions of this section shall apply to amendments and
45 revisions of the codes mentioned herein. The provisions hereof
46 shall be in addition and supplemental to any existing laws
47 authorizing the adoption, amendment or revision of county orders,
48 resolutions or codes.

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

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

85 After any such code shall take effect the board of
86 supervisors is authorized to employ such directors and other
87 personnel as the board, in its discretion, deems necessary and to
88 expend general county funds or any other funds available to the
89 board to fulfill the purposes of this section.

90 For the purpose of promoting health, safety, morals or the
91 general welfare of the community, the governing authority of any
92 municipality, and, with respect to the unincorporated part of any
93 county, the governing authority of any county, in its discretion,
94 are empowered to regulate the height, number of stories and size

95 of building and other structures, the percentage of lot that may
96 be occupied, the size of the yards, courts and other open spaces,
97 the density or population, and the location and use of buildings,
98 structures and land for trade, industry, residence or other
99 purposes, but no permits shall be required except as may be
100 required under the terms of the "Flood Disaster Protection Act of
101 1973" for the erection, maintenance, repair or extension of farm
102 buildings or farm structures outside the corporate limits of
103 municipalities.

104 Any county issuing a plumbing or electrical permit is
105 authorized to charge a fee of no more than Ten Dollars (\$10.00)
106 for such permit.

107 The authority herein granted is cumulative and supplemental
108 to any other authority granted by law.

109 SECTION 2. Section 21-19-25, Mississippi Code of 1972, is
110 amended as follows:

111 21-19-25. Any municipality within the State of Mississippi
112 may, in the discretion of its governing authorities, adopt
113 building codes, plumbing codes, electrical codes, gas codes,
114 sanitary codes, or any other codes dealing with general public
115 health, safety or welfare, or a combination of the same, by
116 ordinance, in the manner herein prescribed. Before any such code
117 shall be adopted, it shall be either printed or typewritten, and
118 it shall be presented in pamphlet form to the governing
119 authorities of the municipality at a regular meeting. The
120 ordinance adopting such code shall not set out said code in full,
121 but shall merely identify the same. The vote on passage of said
122 ordinance shall be the same as on any other ordinances. After its
123 adoption, such code shall be certified to by the mayor and clerk
124 of the municipality, and shall be filed as a permanent record in
125 the office of the clerk, who shall not be required to transcribe
126 and record the same in the ordinance book as other ordinances. It
127 shall not be necessary that such ordinance adopting such code or

128 the code itself be published in full, but notice of the adoption
129 of such code shall be given by publication in some newspaper of
130 the municipality for one time, or if there be no such newspaper,
131 by posting at three or more public places within the corporate
132 limits, a notice in substantially the following form:

133 Notice is hereby given that the city (or town or
134 village) of _____, on the (give date of ordinance
135 adopting code), adopted (state type of code and other
136 information serving to identify the same) code.

137 All the provisions of this section shall apply to amendments
138 and revisions of the code mentioned herein. Any code adopted in
139 accordance with this section shall not be in force for one month
140 after its passage, unless the municipal authorities in such
141 ordinance authorize to the contrary. The provisions hereof shall
142 be in addition and supplemental to any existing laws authorizing
143 the adoption, amendment or revision of municipal ordinances or
144 codes.

145 The provisions of this section shall apply to all
146 municipalities of this state, whether operating under the code
147 charter, a special charter, commission form, or other form of
148 government.

149 Any municipality issuing a plumbing or electrical permit is
150 authorized to charge a fee of no more than Ten Dollars (\$10.00)
151 when issuing such permit.

152 SECTION 3. Section 31-3-13, Mississippi Code of 1972, is
153 amended as follows:

154 31-3-13. The board shall have the following powers and
155 responsibilities:

156 (a) To receive applications for certificates of
157 responsibility, to investigate and examine applicants for same by
158 holding hearings and securing information, to conduct
159 examinations, and to issue certificates of responsibility to such
160 contractors as the board finds to be responsible. One-fourth

161 (1/4) of the certificates scheduled for renewal on the last day of
162 December 1980, shall be reviewed by the board on the first Tuesday
163 in January 1981. The remaining certificates shall be subject to
164 renewal in the following manner: One-fourth (1/4) on the first
165 Tuesday in April 1981; one-fourth (1/4) on the first Tuesday in
166 July 1981; and one-fourth (1/4) on the first Tuesday in October
167 1981. The board is authorized to extend the dates of expiration
168 of certificates to coincide with the scheduled date of review of
169 individual contractors. Except for the certificates extended from
170 December 31, 1980, to the first Tuesday in January 1981, the board
171 shall charge fees for the extension of certificates as follows:

172 (i) Twenty-five Dollars (\$25.00) if the date of
173 renewal of the extended certificate is the first Tuesday in April
174 1981;

175 (ii) Fifty Dollars (\$50.00) if the date of renewal
176 of the extended certificate is the first Tuesday in July 1981; and

177 (iii) Seventy-five Dollars (\$75.00) if the date of
178 renewal of the extended certificate is the first Tuesday in
179 October 1981.

180 The extended certificates renewed in compliance with this
181 paragraph (a) and all original certificates and renewals thereof
182 issued on or after July 1, 1980, shall expire one (1) year from
183 the date of issuance. No certificate or any renewal thereof shall
184 be issued until the application has been on file with the board
185 for at least thirty (30) days. Application for renewal of
186 certificates of responsibility, together with the payment of a
187 special privilege license tax as provided under this chapter,
188 shall serve to extend the current certificate until the board
189 either renews the certificate or denies the application.

190 No certificate of responsibility or any renewal thereof shall
191 be issued until the applicant furnishes to the board his
192 Mississippi state sales tax number or Mississippi state use tax
193 number and his state income tax identification numbers.

194 Additional fees may be required as provided in Section
195 31-3-14.

196 The board shall conduct an objective, standardized
197 examination of an applicant for a certificate to ascertain the
198 ability of the applicant to make practical application of his
199 knowledge of the profession or business of construction in the
200 category or categories for which he has applied for a certificate
201 of responsibility. The cost of the test and the cost of
202 administering the test shall be paid for by applicants for
203 certificates of responsibility at the time applications are filed.
204 The board shall investigate thoroughly the past record of all
205 applicants, which will include an effort toward ascertaining the
206 qualifications of applicants in reading plans and specifications,
207 estimating costs, construction ethics, and other similar matters.
208 The board shall take all applicants under consideration after
209 having examined him or them and go thoroughly into the records and
210 examinations, prior to granting any certificate of responsibility.
211 If the applicant is an individual, examination may be taken by his
212 personal appearance for examination or by the appearance for
213 examination of one or more of his responsible managing employees;
214 and if a copartnership or corporation or any other combination or
215 organization, by the examination of one or more of the responsible
216 managing officers or members of the executive staff of the
217 applicant's firm, according to its own designation.

218 (b) To conduct thorough investigations of all
219 applicants seeking renewal of their licenses and of all complaints
220 filed with the board concerning the performance of a contractor on
221 a public or private project.

222 (c) To obtain information concerning the responsibility
223 of any applicant for a certificate of responsibility or a holder
224 of a certificate of responsibility under this chapter. Such
225 information may be obtained by investigation, by hearings, or by
226 any other reasonable and lawful means. The board shall keep such

227 information appropriately filed and shall disseminate same to any
228 interested person. The board shall have the power of subpoena.

229 (d) To maintain a list of contractors to whom
230 certificates of responsibility are issued, refused, revoked or
231 suspended, which list shall be available to any interested person.
232 Such list shall indicate the kind or kinds of works or projects
233 for which a certificate of responsibility was issued, refused,
234 revoked or suspended.

235 (e) To revoke by order entered on its minutes a
236 certificate of responsibility upon a finding by the board that a
237 particular contractor is not responsible, and to suspend such
238 certificate of responsibility in particular cases pending
239 investigation, upon cause to be stated in the board's order of
240 suspension. No such revocation or suspension shall be ordered
241 without a hearing conducted upon not less than ten (10) days'
242 notice to such certificate holder by certified or registered mail,
243 wherein the holder of the certificate of responsibility shall be
244 given an opportunity to present all lawful evidence which he may
245 offer.

246 (f) To adopt rules and regulations setting forth the
247 requirements for certificates of responsibility, the revocation or
248 suspension thereof, and all other matters concerning same; rules
249 and regulations governing the conduct of the business of the board
250 and its employees; and such other rules and regulations as the
251 board finds necessary for the proper administration of this
252 chapter, including those for the conduct of its hearings on the
253 revocation or suspension of certificates of responsibility. Such
254 rules and regulations shall not conflict with the provisions of
255 this chapter.

256 (g) The board shall have the power and responsibility
257 to classify the kind or kinds of works or projects that a
258 contractor is qualified and entitled to perform under the

259 certificate of responsibility issued to him. Such classification
260 shall be specified in the certificate of responsibility.

261 The powers of the State Board of Contractors shall not extend
262 to fixing a maximum limit in the bid amount of any contractor, or
263 the bonding capacity, or a maximum amount of work which a
264 contractor may have under contract at any time, except as stated
265 in paragraph (a) of this section; and the Board of Contractors
266 shall not have jurisdiction or the power or authority to determine
267 the maximum bond a contractor may be capable of obtaining. The
268 board, in determining the qualifications of any applicant for an
269 original certificate of responsibility or any renewal thereof,
270 shall, among other things, take into consideration the following:
271 (1) experience and ability, (2) character, (3) the manner of
272 performance of previous contracts, (4) financial condition, (5)
273 equipment, (6) personnel, (7) work completed, (8) work on hand,
274 (9) ability to perform satisfactorily work under contract at the
275 time of an application for a certificate of responsibility or a
276 renewal thereof, (10) default in complying with provisions of this
277 law, or any other law of the state, and (11) the results of
278 objective, standardized examinations. A record shall be made and
279 preserved by the board of each examination of an applicant and the
280 findings of the board thereon, and a certified copy of the record
281 and findings shall be furnished to any applicant desiring to
282 appeal from any order or decision of the board.

283 (h) The board shall enter upon its minutes an order or
284 decision upon each application filed with it, and it may state in
285 such order or decision the reason or reasons for its order or
286 decision.

287 Upon failure of the board to enter an order or decision upon
288 its minutes as to any application within one hundred eighty (180)
289 days from the date of filing such application, the applicant shall
290 have the right of appeal as otherwise provided by this chapter.

291 The holder of any valid certificate of responsibility issued
292 by the Board of Public Contractors prior to January 1, 1986, shall
293 be automatically issued a certificate of responsibility by the
294 State Board of Contractors for the same classification or
295 classifications of work which the holder was entitled to perform
296 under the State Board of Public Contractors Act.

297 (i) The board is authorized to charge a fee of no more
298 than Ten Dollars (\$10.00) when issuing a plumbing or electrical
299 permit.

300 SECTION 4. This act shall take effect and be in force from
301 and after July 1, 2001.