

By: Representative Ellington

To: Ways and Means

HOUSE BILL NO. 1670
(As Passed the House)

1 AN ACT TO PROVIDE FOR THE ISSUANCE OF STATE GENERAL
2 OBLIGATION BONDS TO PROVIDE FUNDS FOR THE WATER POLLUTION CONTROL
3 EMERGENCY LOAN PROGRAM; TO AMEND SECTION 49-17-86, MISSISSIPPI
4 CODE OF 1972, TO AUTHORIZE THE PLACEMENT OF CERTAIN FUNDS IN THE
5 WATER POLLUTION CONTROL EMERGENCY LOAN FUND AND TO SET A MAXIMUM
6 LOAN AMOUNT; TO AMEND SECTION 1, CHAPTER 471, LAWS OF 1971, TO
7 REDUCE THE AMOUNT OF BONDS AUTHORIZED FOR THE WATER POLLUTION
8 ABATEMENT LOAN PROGRAM; AND FOR RELATED PURPOSES.

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

10 SECTION 1. The Legislature recognizes the need for water
11 pollution control infrastructure as essential for the protection
12 of the public health and welfare and the environment and for
13 economic development in our state. Sections 49-17-81 through
14 49-17-89, Mississippi Code of 1972, authorize the Commission on
15 Environmental Quality to provide funds from the water pollution
16 control emergency loan program to assist political subdivisions in
17 making emergency improvements such as repairs to or replacement of
18 machinery, equipment, materials, structures or devices in existing
19 water pollution abatement projects.

20 SECTION 2. The Commission on Environmental Quality, at one
21 (1) time or from time to time, may declare by resolution the
22 necessity for issuance of negotiable general obligation bonds of
23 the State of Mississippi in an aggregate amount not to exceed
24 Three Million Three Hundred Thousand Dollars (\$3,300,000.00) to
25 provide funds for the implementation of the water pollution
26 control emergency loan program established under Sections 49-17-81
27 through 49-17-89, Mississippi Code of 1972. Upon the adoption of
28 a resolution by the Commission on Environmental Quality, declaring
29 the necessity for the issuance of any part or all of the general

30 obligation bonds authorized by this section, the Commission on
31 Environmental Quality shall deliver a certified copy of its
32 resolution or resolutions to the State Bond Commission. Upon
33 receipt of such resolution, the State Bond Commission, in its
34 discretion, may act as the issuing agent, prescribe the form of
35 the bonds, advertise for and accept bids, issue and sell the tax
36 exempt or taxable bonds so authorized to be sold and do any and
37 all other things necessary and advisable in connection with the
38 issuance and sale of such bonds.

39 SECTION 3. The principal of and interest on the bonds
40 authorized under Sections 2 through 16 of this act shall be
41 payable in the manner provided in this section. Such bonds shall
42 bear such date or dates, be in such denomination or denominations,
43 bear interest at such rate or rates (not to exceed the limits set
44 forth in Section 75-17-101, Mississippi Code of 1972,) be payable
45 at such place or places within or without the State of
46 Mississippi, shall mature absolutely at such time or times not to
47 exceed twenty (20) years from date of issue, be redeemable before
48 maturity at such time or times and upon such terms, with or
49 without premium, shall bear such registration privileges, and
50 shall be substantially in such form, all as shall be determined by
51 resolution of the State Bond Commission.

52 SECTION 4. The bonds authorized by Sections 2 through 16 of
53 this act shall be signed by the Chairman of the State Bond
54 Commission, or by his facsimile signature, and the official seal
55 of the State Bond Commission shall be affixed thereto, attested by
56 the Secretary of the State Bond Commission. The interest coupons,
57 if any, to be attached to such bonds may be executed by the
58 facsimile signatures of such officers. Whenever any such bonds
59 shall have been signed by the officials designated to sign the
60 bonds who were in office at the time of such signing but who may
61 have ceased to be such officers before the sale and delivery of
62 such bonds, or who may not have been in office on the date such
63 bonds may bear, the signatures of such officers upon such bonds
64 and coupons shall nevertheless be valid and sufficient for all
65 purposes and have the same effect as if the person so officially
66 signing such bonds had remained in office until their delivery to

67 the purchaser, or had been in office on the date such bonds may
68 bear. However, notwithstanding anything herein to the contrary,
69 such bonds may be issued as provided in the Registered Bond Act of
70 the State of Mississippi.

71 SECTION 5. All bonds and interest coupons issued under the
72 provisions of Sections 2 through 16 of this act have all the
73 qualities and incidents of negotiable instruments under the
74 provisions of the Uniform Commercial Code, and in exercising the
75 powers granted by Sections 2 through 16 of this act, the State
76 Bond Commission shall not be required to and need not comply with
77 the provisions of the Uniform Commercial Code.

78 SECTION 6. The State Bond Commission shall act as the
79 issuing agent for the bonds authorized under Sections 2 through 16
80 of this act, prescribe the form of the bonds, advertise for and
81 accept bids, issue and sell the bonds so authorized to be sold,
82 pay all fees and costs incurred in such issuance and sale, and do
83 any and all other things necessary and advisable in connection
84 with the issuance and sale of such bonds. The State Bond
85 Commission is authorized and empowered to pay the costs that are
86 incident to the sale, issuance and delivery of the bonds
87 authorized under Sections 2 through 16 of this act from the
88 proceeds derived from the sale of such bonds. The State Bond
89 Commission shall sell such bonds on sealed bids at public sale,
90 and for such price as it may determine to be for the best interest
91 of the State of Mississippi, but no such sale shall be made at a
92 price less than par plus accrued interest to the date of delivery
93 of the bonds to the purchaser. All interest accruing on such
94 bonds so issued shall be payable semiannually or annually;
95 however, the first interest payment may be for any period of not
96 more than one (1) year.

97 Notice of the sale of any such bonds shall be published at
98 least one (1) time, not less than ten (10) days before the date of
99 sale, and shall be so published in one or more newspapers

100 published or having a general circulation in the City of Jackson,
101 Mississippi, and in one or more other newspapers or financial
102 journals with a national circulation, to be selected by the
103 commission.

104 The State Bond Commission, when issuing any bonds under the
105 authority of Sections 2 through 16 of this act, may provide that
106 bonds, at the option of the State of Mississippi, may be called in
107 for payment and redemption at the call price named therein and
108 accrued interest on such date or dates named therein.

109 SECTION 7. The bonds issued under the provisions of Sections
110 2 through 16 of this act are general obligations of the State of
111 Mississippi, and for the payment thereof the full faith and credit
112 of the State of Mississippi is irrevocably pledged. If the funds
113 appropriated by the Legislature are insufficient to pay the
114 principal of and the interest on such bonds as they become due,
115 then the deficiency shall be paid by the State Treasurer from any
116 funds in the State Treasury not otherwise appropriated. All such
117 bonds shall contain recitals on their faces substantially covering
118 the provisions of this section.

119 SECTION 8. Upon the issuance and sale of bonds under the
120 provisions of Sections 2 through 16 of this act, the State Bond
121 Commission shall transfer the proceeds of any such sale or sales
122 to the special fund created in Section 49-17-86, Mississippi Code
123 of 1972. The proceeds of such bonds shall be disbursed solely
124 upon the order of the Commission on Environmental Quality under
125 such restrictions, if any, as may be contained in the resolution
126 providing for the issuance of the bonds.

127 SECTION 9. The bonds authorized under Sections 2 through 16
128 of this act may be issued without any other proceedings or the
129 happening of any other conditions or things other than those
130 proceedings, conditions and things which are specified or required
131 by Sections 2 through 16 of this act. Any resolution providing
132 for the issuance of bonds under the provisions of Sections 2

133 through 16 of this act shall become effective immediately upon its
134 adoption by the State Bond Commission, and any such resolution may
135 be adopted at any regular or special meeting of the State Bond
136 Commission by a majority of its members.

137 SECTION 10. The bonds authorized under the authority of
138 Sections 2 through 16 of this act may be validated in the Chancery
139 Court of the First Judicial District of Hinds County, Mississippi,
140 in the manner and with the force and effect provided by Chapter
141 13, Title 31, Mississippi Code of 1972, for the validation of
142 county, municipal, school district and other bonds. The notice to
143 taxpayers required by such statutes shall be published in a
144 newspaper published or having a general circulation in the City of
145 Jackson, Mississippi.

146 SECTION 11. Any holder of bonds issued under the provisions
147 of Sections 2 through 16 of this act or of any of the interest
148 coupons pertaining thereto may, either at law or in equity, by
149 suit, action, mandamus or other proceeding, protect and enforce
150 any and all rights granted under Sections 2 through 16 of this
151 act, or under such resolution, and may enforce and compel
152 performance of all duties required by Sections 2 through 16 of
153 this act to be performed, in order to provide for the payment of
154 bonds and interest thereon.

155 SECTION 12. All bonds issued under the provisions of
156 Sections 2 through 16 of this act shall be legal investments for
157 trustees and other fiduciaries, and for savings banks, trust
158 companies and insurance companies organized under the laws of the
159 State of Mississippi, and such bonds shall be legal securities
160 which may be deposited with and shall be received by all public
161 officers and bodies of this state and all municipalities and
162 political subdivisions for the purpose of securing the deposit of
163 public funds.

164 SECTION 13. Bonds issued under the provisions of Sections 2
165 through 16 of this act and income therefrom shall be exempt from

166 all taxation in the State of Mississippi.

167 SECTION 14. The proceeds of the bonds issued under Sections
168 2 through 16 of this act shall be used solely for the purposes
169 herein provided, including the costs incident to the issuance and
170 sale of such bonds.

171 SECTION 15. The State Treasurer is authorized, without
172 further process of law, to certify to the Department of Finance
173 and Administration the necessity for warrants, and the Department
174 of Finance and Administration is authorized and directed to issue
175 such warrants, in such amounts as may be necessary to pay when due
176 the principal of, premium, if any, and interest on, or the
177 accreted value of, all bonds issued under Sections 2 through 16 of
178 this act; and the State Treasurer shall forward the necessary
179 amount to the designated place or places of payment of such bonds
180 in ample time to discharge such bonds, or the interest thereon, on
181 the due dates thereof.

182 SECTION 16. The provisions of Sections 2 through 16 of this
183 act shall be deemed to be full and complete authority for the
184 exercise of the powers therein granted, but Sections 2 through 16
185 of this act shall not be deemed to repeal or to be in derogation
186 of any existing law of this state.

187 SECTION 17. Section 49-17-86, Mississippi Code of 1972, is
188 amended as follows:

189 49-17-86. (1) (a) There is created a fund in the State
190 Treasury to be designated as the "Water Pollution Control
191 Emergency Loan Fund" hereinafter referred to as "emergency fund."

192 (b) The emergency fund may receive appropriations, bond
193 proceeds * * *, grants, gifts, donations or funds from any source,
194 public or private. The emergency fund shall be credited with all
195 repayments of principal and interest derived from loans made from
196 the emergency fund.

197 (c) The monies in the emergency fund may be expended
198 only in amounts appropriated by the Legislature.

199 (d) The emergency fund shall be maintained in
200 perpetuity for the purposes established in this act. Unexpended
201 amount remaining in the emergency fund at the end of a fiscal year
202 shall not lapse into the State General Fund. Any interest earned
203 on amounts in the emergency fund shall be deposited to the credit
204 of the fund.

205 (2) The commission shall establish a loan program to assist
206 political subdivisions in making emergency improvements such as
207 repairs to or replacement of machinery, equipment, materials,
208 structures or devices in existing water pollution abatement
209 projects or such other emergency water pollution abatement
210 projects as the commission deems necessary. Loans from the
211 emergency fund may be made to political subdivisions as set forth
212 in a loan agreement in amounts not exceeding one hundred percent
213 (100%) of eligible project costs as established by the commission.
214 The commission may require local participation or funding from
215 other sources, or otherwise limit the percentage of costs covered
216 by loans from the emergency fund. The commission may establish a
217 maximum amount for any loan not to exceed Three Hundred Fifty
218 Thousand Dollars (\$350,000.00).

219 (3) The emergency fund may be used only:

220 (a) To make loans on the condition that:

221 (i) Loans are made at or below market interest
222 rates, at terms not to exceed ten (10) years after project
223 completion; the interest rate may vary from time to time and from
224 loan to loan at the discretion of the commission.

225 (ii) Periodic principal and interest payments will
226 commence when required by the commission but not later than one
227 (1) year after project completion and all loans will be fully
228 amortized when required by the commission but not later than ten
229 (10) years after project completion.

230 (iii) The recipient of a loan shall establish a
231 dedicated source of revenue for repayment of loans. In addition,

232 the commission may require any loan recipient to impose a per
233 connection surcharge on each customer for repayment of any loan
234 funds provided under this section.

235 (iv) The recipient of the loan is not in arrears
236 in repayments to the Water Pollution Control Revolving Fund, the
237 Water Pollution Control Emergency Loan Fund or under the Water
238 Pollution Abatement Loan Program.

239 (b) To provide financial assistance to political
240 subdivisions in making emergency improvements such as repairs to
241 or replacement of machinery, equipment, materials, structures or
242 devices in existing water pollution abatement projects or such
243 other emergency water pollution abatement projects as the
244 commission deems necessary.

245 (4) The commission shall establish a system of evaluating
246 the eligibility of projects, including a determination of the
247 emergency nature of a situation for which funding is sought.

248 (5) The fund will be credited with all payments of principal
249 and interest derived from the fund uses described in subsection
250 (3) of this section.

251 (6) The commission may establish and collect fees to defray
252 the reasonable costs of administering the emergency fund. Any
253 administrative fees may be included in loan amounts to political
254 subdivisions for the purpose of facilitating payment to the
255 commission; fees may not exceed five percent (5%) of the loan
256 amount. The commission may also use administrative fees collected
257 pursuant to Section 49-17-85 to defray the reasonable costs of
258 administering the emergency fund.

259 SECTION 18. Section 1, Chapter 471, Laws of 1971, is amended
260 as follows:

261 Section 1. The purpose of this act is to authorize the
262 issuance of negotiable special obligation water pollution
263 abatement bonds of the State of Mississippi for the purpose of
264 providing funds to be disbursed pursuant to House Bill No. 81,

265 Laws of Mississippi, Regular Session 1971, for the purpose of
266 constructing facilities for the collection, transport, treatment
267 and disposal of sewage and industrial waste. Provided, that in no
268 event shall the aggregate amount of bonds issued hereunder exceed
269 a total principal amount of Eleven Million Seven Hundred Thousand
270 Dollars (\$11,700,000.00).

271 SECTION 19. This act shall take effect and be in force from
272 and after its passage.