

By: Senator(s) Cuevas

To: Environment Prot,  
Cons and Water Res

COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 3035

1 AN ACT TO AMEND SECTION 49-17-86, MISSISSIPPI CODE OF 1972,  
2 TO AUTHORIZE LOANS FROM THE WATER POLLUTION CONTROL EMERGENCY LOAN  
3 FUND TO ASSIST POLITICAL SUBDIVISIONS IN DEFRAYING THE COSTS OF  
4 FACILITIES PLANNING AND PRELIMINARY ENGINEERING DESIGN FOR WATER  
5 POLLUTION CONTROL REVOLVING FUND PROJECTS; TO LIMIT THE AMOUNT OF  
6 LOANS; TO AMEND SECTION 49-17-85, MISSISSIPPI CODE OF 1972, TO  
7 REQUIRE LOANS FROM THE WATER POLLUTION CONTROL REVOLVING FUND TO  
8 COVER CERTAIN COSTS AND BE MADE IN A MANNER TO MINIMIZE THE NEED  
9 FOR INTERIM FINANCING BY POLITICAL SUBDIVISIONS; AND FOR RELATED  
10 PURPOSES.

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

12 SECTION 1. Section 49-17-86, Mississippi Code of 1972, is  
13 amend as follows:

14 49-17-86. (1) (a) There is created a fund in the State  
15 Treasury to be designated as the "Water Pollution Control  
16 Emergency Loan Fund" hereinafter referred to as "emergency fund."

17 (b) The emergency fund may receive proceeds from the  
18 sale of taxable bonds, grants, gifts, donations or funds from any  
19 source, public or private. The emergency fund shall be credited  
20 with all repayments of principal and interest derived from loans  
21 made from the emergency fund.

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

24 (d) The emergency fund shall be maintained in  
25 perpetuity for the purposes established in this act. Unexpended  
26 amount remaining in the emergency fund at the end of a fiscal year  
27 shall not lapse into the State General Fund. Any interest earned  
28 on amounts in the emergency fund shall be deposited to the credit  
29 of the fund.

30 (2) The commission shall establish a loan program to assist

31 political subdivisions in making emergency improvements such as  
32 repairs to or replacement of machinery, equipment, materials,  
33 structures or devices in existing water pollution abatement  
34 projects or such other emergency water pollution abatement  
35 projects as the commission deems necessary. In addition, loans  
36 from the emergency fund may be made to assist political  
37 subdivisions in defraying the costs of facilities planning and  
38 engineering design for water pollution control revolving fund  
39 projects; however, the amount of any loan for these purposes shall  
40 not exceed Twenty-five Thousand Dollars (\$25,000.00). Loans from  
41 the emergency fund may be made to political subdivisions as set  
42 forth in a loan agreement in amounts not exceeding one hundred  
43 percent (100%) of eligible project costs as established by the  
44 commission. The commission may require local participation or  
45 funding from other sources, or otherwise limit the percentage of  
46 costs covered by loans from the emergency fund. The commission  
47 may establish a maximum amount for any loan.

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

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

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

54 (ii) Periodic principal and interest payments will  
55 commence when required by the commission but not later than one  
56 (1) year after project completion and all loans will be fully  
57 amortized when required by the commission but not later than ten  
58 (10) years after project completion.

59 (iii) The recipient of a loan shall establish a  
60 dedicated source of revenue for repayment of loans. In addition,  
61 the commission may require any loan recipient to impose a per  
62 connection surcharge on each customer for repayment of any loan  
63 funds provided under this section.

64 (iv) The recipient of the loan is not in arrears  
65 in repayments to the Water Pollution Control Revolving Fund, the  
66 Water Pollution Control Emergency Loan Fund or under the Water  
67 Pollution Abatement Loan Program.

68 (b) To provide financial assistance to political  
69 subdivisions in making emergency improvements such as repairs to  
70 or replacement of machinery, equipment, materials, structures or  
71 devices in existing water pollution abatement projects or such  
72 other emergency water pollution abatement projects as the  
73 commission deems necessary.

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

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

80 (6) The commission may establish and collect fees to defray  
81 the reasonable costs of administering the emergency fund. Any  
82 administrative fees may be included in loan amounts to political  
83 subdivisions for the purpose of facilitating payment to the  
84 commission; fees may not exceed five percent (5%) of the loan  
85 amount. The commission may also use administrative fees collected  
86 pursuant to Section 49-17-85 to defray the reasonable costs of  
87 administering the emergency fund.

88 SECTION 2. Section 49-17-85, Mississippi Code of 1972, is  
89 amended as follows:

90 49-17-85. (1) There is established in the State Treasury a  
91 fund to be known as the "Water Pollution Control Revolving Fund"  
92 which shall be administered by the commission acting through the  
93 department. The revolving fund shall be maintained in perpetuity  
94 for the purposes established in this section.

95 (2) There is established in the State Treasury a fund to be  
96 known as the "Water Pollution Control Hardship Grants Fund," which

97 shall be administered by the commission acting through the  
98 department. The grants fund shall be maintained in perpetuity for  
99 the purposes established in this section. Any interest earned on  
100 monies in the grants fund shall be credited to that fund.

101 (3) The commission shall promulgate regulations for the  
102 administration of the revolving fund program, the hardship grants  
103 program and for related programs authorized under this section.  
104 The regulations shall be in accordance with the federal Water  
105 Quality Act of 1987, as amended and regulations and guidance  
106 issued under that act. The commission may enter into  
107 capitalization grant agreements with the United States  
108 Environmental Protection Agency and may accept capitalization  
109 grant awards made under Title VI of the Water Quality Act of 1987,  
110 as amended.

111 (4) The commission shall establish a loan program which  
112 shall commence after October 1, 1988, to assist political  
113 subdivisions in the construction of water pollution control  
114 projects. In addition, loans made under this program shall  
115 include the costs of facilities planning and engineering design  
116 for water pollution control projects. Loans shall be made in a  
117 manner to minimize the need for interim financing for facilities  
118 planning and engineering design by political subdivisions. Loans  
119 from the revolving fund may be made to political subdivisions as  
120 set forth in a loan agreement in amounts not exceeding one hundred  
121 percent (100%) of eligible project costs as established by the  
122 commission. Notwithstanding loan amount limitations set forth in  
123 Section 49-17-61, the commission may require local participation  
124 or funding from other sources, or otherwise limit the percentage  
125 of costs covered by loans from the revolving fund. The commission  
126 may establish a maximum amount for any loan in order to provide  
127 for broad and equitable participation in the program.

128 (5) The commission shall establish a hardship grants program  
129 for rural communities, which shall commence after July 1, 1997, to

130 assist severely economically disadvantaged small rural political  
131 subdivisions in the construction of water pollution control  
132 projects. The commission may receive and administer state or  
133 federal funds, or both, appropriated for the operation of this  
134 grants program and may take all actions necessary to implement the  
135 program in accordance with the federal hardship grants program.  
136 The hardship grants program shall operate in conjunction with the  
137 revolving loan program administered under this section.

138 (6) The commission shall act for the state in all matters  
139 and with respect to all determinations under Title VI of the  
140 federal Water Quality Act of 1987, as amended and the federal  
141 Omnibus Appropriations and Recision Act of 1996.

142 (7) The revolving fund may be used only:

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

144 (i) The loans are made at or below market interest  
145 rates, at terms not to exceed twenty (20) years after project  
146 completion; the interest rate and term may vary from time to time  
147 and from loan to loan at the discretion of the commission;

148 (ii) Periodic principal and interest payments will  
149 commence when required by the commission but not later than one  
150 (1) year after project completion and all loans will be fully  
151 amortized when required by the commission but not later than  
152 twenty (20) years after project completion;

153 (iii) The recipient of a loan will establish a  
154 dedicated source of revenue for repayment of loans;

155 (b) To buy or refinance the debt obligation of  
156 political subdivisions at or below market rates, where the debt  
157 obligations were incurred after March 7, 1985, and where the  
158 projects were constructed in compliance with applicable federal  
159 and state regulations;

160 (c) To guarantee, or purchase insurance for,  
161 obligations of political subdivisions where the action would  
162 improve credit market access or reduce interest rates;

163           (d) To provide loan guarantees for similar revolving  
164 funds established by municipalities or intermunicipal agencies;

165           (e) To earn interest on fund accounts;

166           (f) To establish nonpoint source pollution control  
167 management programs;

168           (g) To establish estuary conservation and management  
169 programs;

170           (h) For the reasonable costs of administering the  
171 revolving fund and conducting activities under this act, subject  
172 to the limitations established in Section 603(d)(7) of Title VI of  
173 the federal Clean Water Act, as amended, and subject to annual  
174 appropriation by the Legislature; and

175           (i) In connection with the issuance, sale and purchase  
176 of bonds under Section 31-25-1 et seq., related to the funding of  
177 projects, to provide security or a pledge of revenues for the  
178 repayment of the bonds.

179           (8) The hardship grants program shall be used only to  
180 provide hardship grants consistent with the federal hardship  
181 grants program for rural communities, regulations and guidance  
182 issued by the United States Environmental Protection Agency,  
183 subsections (3) and (5) of this section and regulations  
184 promulgated and guidance issued by the commission under this  
185 section.

186           (9) The commission shall establish by regulation a system of  
187 priorities and a priority list of projects eligible for funding  
188 with loans from the revolving fund.

189           (10) The commission may provide a loan from the revolving  
190 fund only with respect to a project if that project is on the  
191 priority list established by the commission.

192           (11) The revolving fund shall be credited with all payments  
193 of principal and interest derived from the fund uses described in  
194 subsection (7) of this section.

195           (12) The commission may establish and collect fees to defray

196 the reasonable costs of administering the revolving fund if it  
197 determines that the administrative costs will exceed the  
198 limitations established in Section 603(d)(7) of Title VI of the  
199 federal Clean Water Act, as amended. The administration fees may  
200 be included in loan amounts to political subdivisions for the  
201 purpose of facilitating payment to the commission. The fees may  
202 not exceed five percent (5%) of the loan amount.

203 SECTION 3. This act shall take effect and be in force from  
204 and after July 1, 1999.