

By: Senator(s) Cuevas

To: Environment Prot,
Cons and Water Res

SENATE BILL NO. 3035
(As Passed the Senate)

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.