

By: Ellington

To: Ways and Means

HOUSE BILL NO. 1510
(As Passed the House)

1 AN ACT TO AMEND SECTION 41-3-16, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE SIZE AND MEMBERSHIP OF THE LOCAL GOVERNMENTS AND RURAL
3 WATER SYSTEMS IMPROVEMENTS BOARD; TO PROVIDE FOR AN INDIRECT COST
4 RATE TO BE PAID FOR CONTRACTUAL SERVICES; TO INCREASE FROM
5 \$1,000,000.00 TO \$1,500,000.00 THE MAXIMUM LOAN AMOUNT UNDER THE
6 LOCAL GOVERNMENTS AND RURAL WATER SYSTEMS IMPROVEMENTS LOAN
7 PROGRAM TO \$1,500,000.00; AND FOR RELATED PURPOSES.

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

9 SECTION 1. Section 41-3-16, Mississippi Code of 1972, is
10 amended as follows:[LR1]

11 41-3-16. (1) (a) There is established a local governments
12 and rural water systems improvements revolving loan program to be
13 administered by the State Department of Health, referred to in
14 this section as "department," for the purpose of assisting
15 counties, incorporated municipalities, districts or other water
16 organizations that have been granted tax exempt status under
17 either federal or state law, in making improvements to their water
18 systems, including construction of new water systems or expansion
19 or repair of existing water systems. Loan proceeds may be used by
20 the recipient for planning, professional services, acquisition of
21 interests in land, acquisition of personal property, construction,
22 construction-related services, maintenance, and any other
23 reasonable use which the board, in its discretion, may allow. For
24 purposes of this section, "water systems" has the same meaning as
25 the term "public water system" under Section 41-26-3.

26 (b) (i) There is created a board to be known as the
27 "Local Governments and Rural Water Systems Improvements Board,"
28 referred to in this section as "board," to be composed of the

29 following nine (9) members: * * * the State Health Officer, or his
30 designee, who shall serve as chairman of the board; the Executive
31 Director of the Department of Economic and Community Development,
32 or his designee; the Executive Director of the Department of
33 Environmental Quality, or his designee; the Executive Director of
34 the Department of Finance and Administration, or his designee; the
35 Executive Director of the Mississippi Association of Supervisors,
36 or his designee; * * * the Executive Director of the Mississippi
37 Municipal Association, or his designee; the Executive Director of
38 the Consulting Engineers Council, or his designee; the State
39 Director of the United States Department of Agriculture, Rural
40 Development, or his designee; and a manager of a rural water
41 system. * * *

42 * * *

43 The Governor shall appoint a manager of a rural water
44 system * * * from a list of candidates provided by the Executive
45 Director of the Mississippi Rural Water Association. The
46 Executive Director of the Mississippi Rural Water Association
47 shall provide the Governor a list of candidates which shall
48 contain a minimum of three (3) candidates for each appointment.

49 (ii) Nonappointed members of the board may
50 designate another representative of their agency or association to
51 serve as an alternate.

52 (iii) The gubernatorial appointee shall serve a
53 term concurrent with the term of the Governor and until a
54 successor is appointed and qualified. No member, officer or
55 employee of the Board of Directors of the Mississippi Rural Water
56 Association * * * shall be eligible for appointment.

57 (c) The department, if requested by the board, shall
58 furnish the board with facilities and staff as needed to
59 administer this section. The department may contract, upon
60 approval by the board, for those facilities and staff needed to
61 administer this section, including routine management, as it deems
62 necessary. If the department contracts for facilities and staff
63 to administer this section, the indirect cost rate paid under the
64 contract shall not exceed the indirect cost rate charged by the
65 department. The board may advertise for or solicit proposals from

66 public or private sources, or both, for administration of this
67 section or any services required for administration of this
68 section or any portion thereof. The board shall endeavor to
69 ensure that the costs of administration of this section are as low
70 as possible in order to provide the water consumers of Mississippi
71 safe drinking water at affordable prices.

72 (d) Members of the board may not receive any salary,
73 compensation or per diem for the performance of their duties under
74 this section.

75 (2) (a) There is created a special fund in the State
76 Treasury to be designated as the "Local Governments and Rural
77 Water Systems Improvements Revolving Loan Fund," referred to in
78 this section as "revolving fund," which fund shall consist of
79 those monies as provided in Sections 6 and 13 of Chapter 521, Laws
80 of 1995. The revolving fund may receive appropriations, bond
81 proceeds, grants, gifts, donations or funds from any source,
82 public or private. The revolving fund shall be credited with all
83 repayments of principal and interest derived from loans made from
84 the revolving fund. The monies in the revolving fund may be
85 expended only in amounts appropriated by the Legislature. The
86 revolving fund shall be maintained in perpetuity for the purposes
87 established in this section and Sections 6 through 20 of Chapter
88 521, Laws of 1995. Unexpended amounts remaining in the revolving
89 fund at the end of a fiscal year shall not lapse into the State
90 General Fund, and any interest earned on amounts in the revolving
91 fund shall be deposited to the credit of the fund. Monies in the
92 revolving fund may not be used or expended for any purpose except
93 as authorized under this section and Sections 6 through 20 of
94 Chapter 521, Laws of 1995. Any monies in the fund may be used to
95 match any federal funds that are available for the same or related
96 purposes for which funds are used and expended under this section
97 and Sections 6 through 20 of Chapter 521, Laws of 1995. Any
98 federal funds shall be used and expended only in accordance with

99 federal laws, rules and regulations governing the expenditure of
100 those funds. No person shall use any monies from the revolving
101 fund for the acquisition of real property or any interest in real
102 property unless that property is integral to the project funded
103 under this section and the purchase is made from a willing seller.

104 No county, incorporated municipality or district shall acquire
105 any real property or any interest in any real property for a
106 project funded through the revolving fund by condemnation. The
107 board's application of Sections 43-37-1 through 43-37-13 shall be
108 no more stringent or extensive in scope, coverage and effect than
109 federal property acquisition laws and regulations.

110 (b) There is created a special fund in the State
111 Treasury to be designated as the "Local Governments and Rural
112 Water Systems Emergency Loan Fund," hereinafter referred to as
113 "emergency fund," which fund shall consist of those monies as
114 provided in Sections 6 and 13 of Chapter 521, Laws of 1995. The
115 emergency fund may receive appropriations, bond proceeds, grants,
116 gifts, donations or funds from any source, public or private. The
117 emergency fund shall be credited with all repayments of principal
118 and interest derived from loans made from the emergency fund. The
119 monies in the emergency fund may be expended only in amounts
120 appropriated by the Legislature. The emergency fund shall be
121 maintained in perpetuity for the purposes established in this
122 section and Section 6 of Chapter 521, Laws of 1995. Unexpended
123 amounts remaining in the emergency fund at the end of a fiscal
124 year shall not lapse into the State General Fund. Any interest
125 earned on amounts in the emergency fund shall be deposited to the
126 credit of the fund. Monies in the emergency fund may not be used
127 or expended for any purpose except as authorized under this
128 section and Section 6 of Chapter 521, Laws of 1995.

129 (c) The board created in subsection (1) shall establish
130 loan programs by which loans may be made available to counties,
131 incorporated municipalities, districts or other water

132 organizations that have been granted tax exempt status under
133 either federal or state law, to assist those counties,
134 incorporated municipalities, districts or water organizations in
135 making water systems improvements, including the construction of
136 new water systems or expansion or repair of existing water
137 systems. The interest rate on those loans may vary from time to
138 time and from loan to loan, and will be at or below market
139 interest rates as determined by the board. The board shall act as
140 quickly as is practicable and prudent in deciding on any loan
141 request that it receives. Loans from the revolving fund or
142 emergency fund may be made to counties, incorporated
143 municipalities, districts or other water organizations that have
144 been granted tax exempt status under either federal or state law,
145 as set forth in a loan agreement in amounts not to exceed one
146 hundred percent (100%) of eligible project costs as established by
147 the board. The board may require county, municipal, district or
148 other water organization participation or funding from other
149 sources, or otherwise limit the percentage of costs covered by
150 loans from the revolving fund or the emergency fund. The maximum
151 amount for any loan from the emergency fund shall be Five Hundred
152 Thousand Dollars (\$500,000.00), and the maximum amount for any
153 loan from the revolving fund shall be One Million Five Hundred
154 Thousand Dollars (\$1,500,000.00).

155 (d) A county that receives a loan from the revolving
156 fund or the emergency fund shall pledge for repayment of the loan
157 any part of the homestead exemption annual tax loss reimbursement
158 to which it may be entitled under Section 27-33-77, as may be
159 required to meet the repayment schedule contained in the loan
160 agreement. An incorporated municipality that receives a loan from
161 the revolving fund or the emergency fund shall pledge for
162 repayment of the loan any part of the sales tax revenue
163 distribution to which it may be entitled under Section 27-65-75,
164 as may be required to meet the repayment schedule contained in the

165 loan agreement. All recipients of such loans shall establish a
166 dedicated source of revenue for repayment of the loan. Before any
167 county or incorporated municipality shall receive any loan, it
168 shall have executed with the State Tax Commission and the board a
169 loan agreement evidencing that loan. The loan agreement shall not
170 be construed to prohibit any recipient from prepaying any part or
171 all of the funds received. The repayment schedule in each loan
172 agreement shall provide for (i) monthly payments, (ii) semiannual
173 payments or (iii) other periodic payments, the annual total of
174 which shall not exceed the annual total for any other year of the
175 loan by more than fifteen percent (15%). The loan agreement shall
176 provide for the repayment of all funds received from the revolving
177 fund within not more than fifteen (15) years or a term as
178 otherwise allowed by the federal Safe Drinking Water Act, and all
179 funds received from the emergency fund within not more than five
180 (5) years from the date of project completion, and any repayment
181 shall commence not later than one (1) year after project
182 completion. The State Tax Commission shall withhold semiannually
183 from counties and monthly from incorporated municipalities from
184 the amount to be remitted to the county or municipality, a sum
185 equal to the next repayment as provided in the loan agreement.

186 (e) Any county, incorporated municipality, district or
187 other water organization desiring to construct a project approved
188 by the board which receives a loan from the state for that purpose
189 but which is not eligible to pledge for repayment under the
190 provisions of paragraph (d) of this subsection, shall repay that
191 loan by making payments each month to the State Treasurer through
192 the Department of Finance and Administration for and on behalf of
193 the board according to Section 7-7-15, to be credited to either
194 the revolving fund or the emergency fund, whichever is
195 appropriate, in lieu of pledging homestead exemption annual tax
196 loss reimbursement or sales tax revenue distribution.

197 Loan repayments shall be according to a repayment schedule

198 contained in each loan agreement as provided in paragraph (d) of
199 this subsection.

200 (f) Any district created pursuant to Sections 19-5-151
201 through 19-5-207 that receives a loan from the revolving fund or
202 the emergency fund shall pledge for repayment of the loan any part
203 of the revenues received by that district pursuant to Sections
204 19-5-151 through 19-5-207, as may be required to meet the
205 repayment schedule contained in the loan agreement.

206 (g) The State Auditor, upon request of the board, shall
207 audit the receipts and expenditures of a county, an incorporated
208 municipality, district or other water organization whose loan
209 repayments appear to be in arrears, and if the Auditor finds that
210 the county, incorporated municipality, district or other water
211 organization is in arrears in those repayments, the Auditor shall
212 immediately notify the chairman of the board who may take any
213 action as may be necessary to enforce the terms of the loan
214 agreement, including liquidation and enforcement of the security
215 given for repayment of the loan, and the Executive Director of the
216 Department of Finance and Administration who shall withhold all
217 future payments to the county of homestead exemption annual tax
218 loss reimbursements under Section 27-33-77 and all sums allocated
219 to the county or the incorporated municipality under Section
220 27-65-75 until such time as the county or the incorporated
221 municipality is again current in its loan repayments as certified
222 by the board.

223 (h) All monies deposited in the revolving fund or the
224 emergency fund, including loan repayments and interest earned on
225 those repayments, shall be used only for providing loans or other
226 financial assistance to water systems as the board deems
227 appropriate. In addition, any amounts in the revolving fund or
228 the emergency fund may be used to defray the reasonable costs of
229 administering the revolving fund or the emergency fund and
230 conducting activities under this section and Sections 6 through 20

231 of Chapter 521, Laws of 1995, subject to any limitations
232 established in the federal Safe Drinking Water Act, as amended and
233 subject to annual appropriation by the Legislature. The
234 department is authorized, upon approval by the board, to use
235 amounts available to it from the revolving fund or the emergency
236 fund to contract for those facilities and staff needed to
237 administer and provide routine management for the funds and loan
238 program.

239 (3) In administering this section and Sections 6 through 20
240 of Chapter 521, Laws of 1995, the board created in subsection (1)
241 of this section shall have the following powers and duties:

242 (a) To supervise the use of all funds made available
243 under this section and Sections 6 through 20 of Chapter 521, Laws
244 of 1995, for local governments and rural water systems
245 improvements;

246 (b) To promulgate rules and regulations, to make
247 variances and exceptions thereto, and to establish procedures in
248 accordance with this section and Sections 6 through 20 of Chapter
249 521, Laws of 1995, for the implementation of the local governments
250 and rural water systems improvements revolving loan program;

251 (c) To require, at the board's discretion, any loan
252 recipient to impose a per connection fee or surcharge or amended
253 water rate schedule or tariff on each customer or any class of
254 customers, benefiting from an improvement financed by a loan made
255 under this act, for repayment of any loan funds provided under
256 this section and Sections 6 through 20 of Chapter 521, Laws of
257 1995. The board may require any loan recipient to undergo a water
258 system viability analysis and may require a loan recipient to
259 implement any result of the viability analysis. If the loan
260 recipient fails to implement any result of a viability analysis as
261 required by the board, the board may impose a monetary penalty or
262 increase the interest rate on the loan, or both.

263 (d) To review and certify all projects for which funds

264 are authorized to be made available under this section and
265 Sections 6 through 20 of Chapter 521, Laws of 1995, for local
266 governments and rural water systems improvements;

267 (e) To requisition monies in the Local Governments and
268 Rural Water Systems Improvements Revolving Loan Fund and the Local
269 Governments and Rural Water Systems Emergency Loan Fund and
270 distribute those monies on a project-by-project basis in
271 accordance with this section;

272 (f) To ensure that the funds made available under this
273 section and Sections 6 through 20 of Chapter 521, Laws of 1995,
274 to a county, an incorporated municipality, a district or a water
275 organization that has been granted tax exempt status under either
276 federal or state law provide for a distribution of projects and
277 funds among the entities under a priority system established by
278 the board;

279 (g) To maintain in accordance with generally accepted
280 government accounting standards an accurate record of all monies
281 in the revolving fund and the emergency fund made available to
282 counties, incorporated municipalities, districts or other water
283 organizations under this section and Sections 6 through 20 of
284 Chapter 521, Laws of 1995, and the costs for each project;

285 (h) To establish policies, procedures and requirements
286 concerning viability and financial capability to repay loans that
287 may be used in approving loans available under this section,
288 including a requirement that all loan recipients have a rate
289 structure which will be sufficient to cover the costs of
290 operation, maintenance, major equipment replacement and repayment
291 of any loans made under this section; and

292 (i) To file annually with the Legislature a report
293 detailing how monies in the Local Governments and Rural Water
294 Systems Improvements Revolving Loan Fund and the Local Governments
295 and Rural Water Systems Emergency Loan Fund were spent during the
296 preceding fiscal year in each county, incorporated municipality,

297 district or other water organization, the number of projects
298 approved and constructed, and the cost of each project.

299 For efficient and effective administration of the loan
300 program, revolving fund and emergency fund, the board may
301 authorize the department or the State Health Officer to carry out
302 any or all of the powers and duties enumerated above.

303 SECTION 2. This act shall take effect and be in force from
304 and after its passage.