

By: Dearing

To: Environment Prot,
Cons and Water Res

SENATE BILL NO. 2966

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 THE MAXIMUM
5 LOAN AMOUNT UNDER THE LOCAL GOVERNMENTS AND RURAL WATER SYSTEMS
6 IMPROVEMENTS LOAN PROGRAM TO \$3,000,000.00; AND FOR RELATED
7 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 who
30 shall serve as chairman of the board; the Executive Director of
31 the Department of Economic and Community Development; the
32 Executive Director of the Department of Environmental Quality; the
33 Executive Director of the Department of Finance and
34 Administration; the Executive Director of the Mississippi
35 Association of Supervisors; * * * the Executive Director of the
36 Mississippi Municipal Association; the Executive Director of the
37 Consulting Engineers Council; the State Director of the U.S.
38 Department of Agriculture, Rural Development; and a manager of a
39 rural water system. * * *

40 * * *

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

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

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

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

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

66 (2) (a) There is created a special fund in the State
67 Treasury to be designated as the "Local Governments and Rural
68 Water Systems Improvements Revolving Loan Fund," referred to in
69 this section as "revolving fund," which fund shall consist of
70 those monies as provided in Sections 6 and 13 of Chapter 521, Laws
71 of 1995. The revolving fund may receive appropriations, bond
72 proceeds, grants, gifts, donations or funds from any source,
73 public or private. The revolving fund shall be credited with all
74 repayments of principal and interest derived from loans made from
75 the revolving fund. The monies in the revolving fund may be
76 expended only in amounts appropriated by the Legislature. The
77 revolving fund shall be maintained in perpetuity for the purposes
78 established in this section and Sections 6 through 20 of Chapter
79 521, Laws of 1995. Unexpended amounts remaining in the revolving
80 fund at the end of a fiscal year shall not lapse into the State
81 General Fund, and any interest earned on amounts in the revolving
82 fund shall be deposited to the credit of the fund. Monies in the
83 revolving fund may not be used or expended for any purpose except
84 as authorized under this section and Sections 6 through 20 of
85 Chapter 521, Laws of 1995. Any monies in the fund may be used to
86 match any federal funds that are available for the same or related
87 purposes for which funds are used and expended under this section
88 and Sections 6 through 20 of Chapter 521, Laws of 1995. Any
89 federal funds shall be used and expended only in accordance with
90 federal laws, rules and regulations governing the expenditure of
91 those funds. No person shall use any monies from the revolving
92 fund for the acquisition of real property or any interest in real
93 property unless that property is integral to the project funded
94 under this section and the purchase is made from a willing seller.
95 No county, incorporated municipality or district shall acquire
96 any real property or any interest in any real property for a
97 project funded through the revolving fund by condemnation. The
98 board's application of Sections 43-37-1 through 43-37-13 shall be

99 no more stringent or extensive in scope, coverage and effect than
100 federal property acquisition laws and regulations.

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

120 (c) The board created in subsection (1) shall establish
121 loan programs by which loans may be made available to counties,
122 incorporated municipalities, districts or other water
123 organizations that have been granted tax exempt status under
124 either federal or state law, to assist those counties,
125 incorporated municipalities, districts or water organizations in
126 making water systems improvements, including the construction of
127 new water systems or expansion or repair of existing water
128 systems. The interest rate on those loans may vary from time to
129 time and from loan to loan, and will be at or below market
130 interest rates as determined by the board. The board shall act as
131 quickly as is practicable and prudent in deciding on any loan

132 request that it receives. Loans from the revolving fund or
133 emergency fund may be made to counties, incorporated
134 municipalities, districts or other water organizations that have
135 been granted tax exempt status under either federal or state law,
136 as set forth in a loan agreement in amounts not to exceed one
137 hundred percent (100%) of eligible project costs as established by
138 the board. The board may require county, municipal, district or
139 other water organization participation or funding from other
140 sources, or otherwise limit the percentage of costs covered by
141 loans from the revolving fund or the emergency fund. The maximum
142 amount for any loan from the emergency fund shall be Five Hundred
143 Thousand Dollars (\$500,000.00), and the maximum amount for any
144 loan from the revolving fund shall be Three Million Dollars
145 (\$3,000,000.00).

146 (d) A county that receives a loan from the revolving
147 fund or the emergency fund shall pledge for repayment of the loan
148 any part of the homestead exemption annual tax loss reimbursement
149 to which it may be entitled under Section 27-33-77, as may be
150 required to meet the repayment schedule contained in the loan
151 agreement. An incorporated municipality that receives a loan from
152 the revolving fund or the emergency fund shall pledge for
153 repayment of the loan any part of the sales tax revenue
154 distribution to which it may be entitled under Section 27-65-75,
155 as may be required to meet the repayment schedule contained in the
156 loan agreement. All recipients of such loans shall establish a
157 dedicated source of revenue for repayment of the loan. Before any
158 county or incorporated municipality shall receive any loan, it
159 shall have executed with the State Tax Commission and the board a
160 loan agreement evidencing that loan. The loan agreement shall not
161 be construed to prohibit any recipient from prepaying any part or
162 all of the funds received. The repayment schedule in each loan
163 agreement shall provide for (i) monthly payments, (ii) semiannual
164 payments or (iii) other periodic payments, the annual total of

165 which shall not exceed the annual total for any other year of the
166 loan by more than fifteen percent (15%). The loan agreement shall
167 provide for the repayment of all funds received from the revolving
168 fund within not more than fifteen (15) years or a term as
169 otherwise allowed by the federal Safe Drinking Water Act, and all
170 funds received from the emergency fund within not more than five
171 (5) years from the date of project completion, and any repayment
172 shall commence not later than one (1) year after project
173 completion. The State Tax Commission shall withhold semiannually
174 from counties and monthly from incorporated municipalities from
175 the amount to be remitted to the county or municipality, a sum
176 equal to the next repayment as provided in the loan agreement.

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

188 Loan repayments shall be according to a repayment schedule
189 contained in each loan agreement as provided in paragraph (d) of
190 this subsection.

191 (f) Any district created pursuant to Sections 19-5-151
192 through 19-5-207 that receives a loan from the revolving fund or
193 the emergency fund shall pledge for repayment of the loan any part
194 of the revenues received by that district pursuant to Sections
195 19-5-151 through 19-5-207, as may be required to meet the
196 repayment schedule contained in the loan agreement.

197 (g) The State Auditor, upon request of the board, shall

198 audit the receipts and expenditures of a county, an incorporated
199 municipality, district or other water organization whose loan
200 repayments appear to be in arrears, and if the Auditor finds that
201 the county, incorporated municipality, district or other water
202 organization is in arrears in those repayments, the Auditor shall
203 immediately notify the chairman of the board who may take any
204 action as may be necessary to enforce the terms of the loan
205 agreement, including liquidation and enforcement of the security
206 given for repayment of the loan, and the Executive Director of the
207 Department of Finance and Administration who shall withhold all
208 future payments to the county of homestead exemption annual tax
209 loss reimbursements under Section 27-33-77 and all sums allocated
210 to the county or the incorporated municipality under Section
211 27-65-75 until such time as the county or the incorporated
212 municipality is again current in its loan repayments as certified
213 by the board.

214 (h) All monies deposited in the revolving fund or the
215 emergency fund, including loan repayments and interest earned on
216 those repayments, shall be used only for providing loans or other
217 financial assistance to water systems as the board deems
218 appropriate. In addition, any amounts in the revolving fund or
219 the emergency fund may be used to defray the reasonable costs of
220 administering the revolving fund or the emergency fund and
221 conducting activities under this section and Sections 6 through 20
222 of Chapter 521, Laws of 1995, subject to any limitations
223 established in the federal Safe Drinking Water Act, as amended and
224 subject to annual appropriation by the Legislature. The
225 department is authorized, upon approval by the board, to use
226 amounts available to it from the revolving fund or the emergency
227 fund to contract for those facilities and staff needed to
228 administer and provide routine management for the funds and loan
229 program.

230 (3) In administering this section and Sections 6 through 20

231 of Chapter 521, Laws of 1995, the board created in subsection (1)
232 of this section shall have the following powers and duties:

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

237 (b) To promulgate rules and regulations, to make
238 variances and exceptions thereto, and to establish procedures in
239 accordance with this section and Sections 6 through 20 of Chapter
240 521, Laws of 1995, for the implementation of the local governments
241 and rural water systems improvements revolving loan program;

242 (c) To require, at the board's discretion, any loan
243 recipient to impose a per connection fee or surcharge or amended
244 water rate schedule or tariff on each customer or any class of
245 customers, benefiting from an improvement financed by a loan made
246 under this act, for repayment of any loan funds provided under
247 this section and Sections 6 through 20 of Chapter 521, Laws of
248 1995. The board may require any loan recipient to undergo a water
249 system viability analysis and may require a loan recipient to
250 implement any result of the viability analysis. If the loan
251 recipient fails to implement any result of a viability analysis as
252 required by the board, the board may impose a monetary penalty or
253 increase the interest rate on the loan, or both.

254 (d) To review and certify all projects for which funds
255 are authorized to be made available under this section and
256 Sections 6 through 20 of Chapter 521, Laws of 1995, for local
257 governments and rural water systems improvements;

258 (e) To requisition monies in the Local Governments and
259 Rural Water Systems Improvements Revolving Loan Fund and the Local
260 Governments and Rural Water Systems Emergency Loan Fund and
261 distribute those monies on a project-by-project basis in
262 accordance with this section;

263 (f) To ensure that the funds made available under this

264 section and Sections 6 through 20 of Chapter 521, Laws of 1995,
265 to a county, an incorporated municipality, a district or a water
266 organization that has been granted tax exempt status under either
267 federal or state law provide for a distribution of projects and
268 funds among the entities under a priority system established by
269 the board;

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

276 (h) To establish policies, procedures and requirements
277 concerning viability and financial capability to repay loans that
278 may be used in approving loans available under this section,
279 including a requirement that all loan recipients have a rate
280 structure which will be sufficient to cover the costs of
281 operation, maintenance, major equipment replacement and repayment
282 of any loans made under this section; and

283 (i) To file annually with the Legislature a report
284 detailing how monies in the Local Governments and Rural Water
285 Systems Improvements Revolving Loan Fund and the Local Governments
286 and Rural Water Systems Emergency Loan Fund were spent during the
287 preceding fiscal year in each county, incorporated municipality,
288 district or other water organization, the number of projects
289 approved and constructed, and the cost of each project.

290 For efficient and effective administration of the loan
291 program, revolving fund and emergency fund, the board may
292 authorize the department or the State Health Officer to carry out
293 any or all of the powers and duties enumerated above.

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