

By: Dearing

To: Environment Prot,
Cons and Water ResSENATE BILL NO. 2966
(As Sent to Governor)

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 INCREASE FROM \$1,000,000.00
4 TO \$1,500,000.00 THE MAXIMUM LOAN AMOUNT UNDER THE LOCAL
5 GOVERNMENTS AND RURAL WATER SYSTEMS IMPROVEMENTS LOAN PROGRAM; AND
6 FOR RELATED PURPOSES.

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

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

10 41-3-16. (1) (a) There is established a local governments
11 and rural water systems improvements revolving loan program to be
12 administered by the State Department of Health, referred to in
13 this section as "department," for the purpose of assisting
14 counties, incorporated municipalities, districts or other water
15 organizations that have been granted tax exempt status under
16 either federal or state law, in making improvements to their water
17 systems, including construction of new water systems or expansion
18 or repair of existing water systems. Loan proceeds may be used by
19 the recipient for planning, professional services, acquisition of
20 interests in land, acquisition of personal property, construction,
21 construction-related services, maintenance, and any other
22 reasonable use which the board, in its discretion, may allow. For
23 purposes of this section, "water systems" has the same meaning as
24 the term "public water system" under Section 41-26-3.

25 (b) (i) There is created a board to be known as the
26 "Local Governments and Rural Water Systems Improvements Board,"
27 referred to in this section as "board," to be composed of the
28 following nine (9) members: * * * the State Health Officer, or his

29 designee, who shall serve as chairman of the board; the Executive
30 Director of the Department of Economic and Community Development,
31 or his designee; the Executive Director of the Department of
32 Environmental Quality, or his designee; the Executive Director of
33 the Department of Finance and Administration, or his designee; the
34 Executive Director of the Mississippi Association of Supervisors,
35 or his designee; * * * the Executive Director of the Mississippi
36 Municipal League, or his designee; the Executive Director of the
37 Consulting Engineers Council, or his designee; the State Director
38 of the United States Department of Agriculture, Rural Development,
39 or his designee; and a manager of a 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, if requested by the board, shall
56 furnish the board with facilities and staff as needed to
57 administer this section. The department may contract, upon
58 approval by the board, for those facilities and staff needed to
59 administer this section, including routine management, as it deems
60 necessary. The board may advertise for or solicit proposals from
61 public or private sources, or both, for administration of this
62 section or any services required for administration of this
63 section or any portion thereof. It is the intent of the
64 Legislature that the board endeavor to ensure that the costs of
65 administration of this section are as low as possible in order to

66 provide the water consumers of Mississippi safe drinking water at
67 affordable prices.

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

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

99 under this section and the purchase is made from a willing seller.
100 No county, incorporated municipality or district shall acquire
101 any real property or any interest in any real property for a
102 project funded through the revolving fund by condemnation. The
103 board's application of Sections 43-37-1 through 43-37-13 shall be
104 no more stringent or extensive in scope, coverage and effect than
105 federal property acquisition laws and regulations.

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

125 (c) The board created in subsection (1) shall establish
126 loan programs by which loans may be made available to counties,
127 incorporated municipalities, districts or other water
128 organizations that have been granted tax exempt status under
129 either federal or state law, to assist those counties,
130 incorporated municipalities, districts or water organizations in
131 making water systems improvements, including the construction of

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

151 (d) A county that receives a loan from the revolving
152 fund or the emergency fund shall pledge for repayment of the loan
153 any part of the homestead exemption annual tax loss reimbursement
154 to which it may be entitled under Section 27-33-77, as may be
155 required to meet the repayment schedule contained in the loan
156 agreement. An incorporated municipality that receives a loan from
157 the revolving fund or the emergency fund shall pledge for
158 repayment of the loan any part of the sales tax revenue
159 distribution to which it may be entitled under Section 27-65-75,
160 as may be required to meet the repayment schedule contained in the
161 loan agreement. All recipients of such loans shall establish a
162 dedicated source of revenue for repayment of the loan. Before any
163 county or incorporated municipality shall receive any loan, it
164 shall have executed with the State Tax Commission and the board a

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

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

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

196 (f) Any district created pursuant to Sections 19-5-151
197 through 19-5-207 that receives a loan from the revolving fund or

198 the emergency fund shall pledge for repayment of the loan any part
199 of the revenues received by that district pursuant to Sections
200 19-5-151 through 19-5-207, as may be required to meet the
201 repayment schedule contained in the loan agreement.

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

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

231 amounts available to it from the revolving fund or the emergency
232 fund to contract for those facilities and staff needed to
233 administer and provide routine management for the funds and loan
234 program.

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

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

242 (b) To promulgate rules and regulations, to make
243 variances and exceptions thereto, and to establish procedures in
244 accordance with this section and Sections 6 through 20 of Chapter
245 521, Laws of 1995, for the implementation of the local governments
246 and rural water systems improvements revolving loan program;

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

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

263 (e) To requisition monies in the Local Governments and

264 Rural Water Systems Improvements Revolving Loan Fund and the Local
265 Governments and Rural Water Systems Emergency Loan Fund and
266 distribute those monies on a project-by-project basis in
267 accordance with this section;

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

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

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

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

295 For efficient and effective administration of the loan
296 program, revolving fund and emergency fund, the board may

297 authorize the department or the State Health Officer to carry out
298 any or all of the powers and duties enumerated above.

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