

By: Representative Ellington

To: Conservation and Water Resources

HOUSE BILL NO. 936

1 AN ACT TO AMEND SECTION 41-3-16, MISSISSIPPI CODE OF 1972, TO
2 EXPAND THE LOCAL GOVERNMENTS AND RURAL WATER SYSTEMS IMPROVEMENTS
3 REVOLVING LOAN PROGRAM TO INCLUDE THE AUTHORITY FOR THE GOVERNING
4 BOARD TO AWARD GRANTS TO A COUNTY, MUNICIPALITY, DISTRICT OR OTHER
5 WATER ORGANIZATION FOR THE PURPOSE OF IMPROVING THE ENTITY'S WATER
6 SYSTEM; AND 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:

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

41 The Governor shall appoint a manager of a rural water system
42 from a list of candidates provided by the Executive Director of
43 the Mississippi Rural Water Association. The Executive Director
44 of the Mississippi Rural Water Association shall provide the
45 Governor a list of candidates which shall contain a minimum of
46 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 any
101 real property or any interest in any real property for a project
102 funded through the revolving fund by condemnation. The board's
103 application of Sections 43-37-1 through 43-37-13 shall be no more
104 stringent or extensive in scope, coverage and effect than federal
105 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 and grant programs by which loans and grants may be made
127 available to counties, incorporated municipalities, districts or
128 other water organizations that have been granted tax exempt status



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

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



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

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



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

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

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

221 (h) All monies deposited in the revolving fund or the
222 emergency fund, including loan repayments and interest earned on
223 those repayments, shall be used only for providing loans or other
224 financial assistance to water systems as the board deems
225 appropriate. In addition, any amounts in the revolving fund or
226 the emergency fund may be used to defray the reasonable costs of
227 administering the revolving fund or the emergency fund and



228 conducting activities under this section and Sections 6 through 20
229 of Chapter 521, Laws of 1995, subject to any limitations
230 established in the federal Safe Drinking Water Act, as amended and
231 subject to annual appropriation by the Legislature. The
232 department is authorized, upon approval by the board, to use
233 amounts available to it from the revolving fund or the emergency
234 fund to contract for those facilities and staff needed to
235 administer and provide routine management for the funds and loan
236 program.

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

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

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

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



261 loan, or both. If the grant recipient fails to implement any
262 result of a viability analysis as required by the board, the board
263 may impose a monetary penalty on the grant;

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

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

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

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

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



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

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

304 **SECTION 2.** This act shall take effect and be in force from
305 and after July 1, 2002.

