

By: Senator(s) Nunnelee

To: Finance

## SENATE BILL NO. 2602

1 AN ACT TO AMEND SECTION 41-3-16, MISSISSIPPI CODE OF 1972, TO  
2 REMOVE THE CAP ON THE LOCAL GOVERNMENTS AND RURAL DRINKING WATER  
3 SYSTEMS IMPROVEMENTS LOAN AND GRANT PROGRAM; AND FOR RELATED  
4 PURPOSES.

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

6 **SECTION 1.** Section 41-3-16, Mississippi Code of 1972, is  
7 amended as follows:

8 41-3-16. (1) (a) There is established a local governments  
9 and rural water systems improvements revolving loan and grant  
10 program to be administered by the State Department of Health,  
11 referred to in this section as "department," for the purpose of  
12 assisting counties, incorporated municipalities, districts or  
13 other water organizations that have been granted tax exempt status  
14 under either federal or state law, in making improvements to their  
15 water systems, including construction of new water systems or  
16 expansion or repair of existing water systems. Loan and grant  
17 proceeds may be used by the recipient for planning, professional  
18 services, acquisition of interests in land, acquisition of  
19 personal property, construction, construction-related services,  
20 maintenance, and any other reasonable use which the board, in its  
21 discretion, may allow. For purposes of this section, "water  
22 systems" has the same meaning as the term "public water system"  
23 under Section 41-26-3.

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

29 Director of the Mississippi Development Authority, or his  
30 designee; the Executive Director of the Department of  
31 Environmental Quality, or his designee; the Executive Director of  
32 the Department of Finance and Administration, or his designee; the  
33 Executive Director of the Mississippi Association of Supervisors,  
34 or his designee; the Executive Director of the Mississippi  
35 Municipal League, or his designee; the Executive Director of the  
36 Consulting Engineers Council, or his designee; the State Director  
37 of the United States Department of Agriculture, Rural Development,  
38 or his designee; and a manager of a rural water system.

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

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

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

53               (c) The department, if requested by the board, shall  
54 furnish the board with facilities and staff as needed to  
55 administer this section. The department may contract, upon  
56 approval by the board, for those facilities and staff needed to  
57 administer this section, including routine management, as it deems  
58 necessary. The board may advertise for or solicit proposals from  
59 public or private sources, or both, for administration of this  
60 section or any services required for administration of this  
61 section or any portion thereof. It is the intent of the

Legislature that the board endeavor to ensure that the costs of administration of this section are as low as possible in order to provide the water consumers of Mississippi safe drinking water at affordable prices.

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

(2) (a) There is created a special fund in the State Treasury to be designated as the "Local Governments and Rural Water Systems Improvements Revolving Loan Fund," referred to in this section as "revolving fund," which fund shall consist of those monies as provided in Sections 6 and 13 of Chapter 521, Laws of 1995. The revolving fund may receive appropriations, bond proceeds, grants, gifts, donations or funds from any source, public or private. The revolving fund shall be credited with all repayments of principal and interest derived from loans made from the revolving fund. The monies in the revolving fund may be expended only in amounts appropriated by the Legislature, and the different amounts specifically provided for the loan program and the grant program shall be so designated. Monies in the fund may only be expended for the grant program from the amount designated for such program. The revolving fund shall be maintained in perpetuity for the purposes established in this section and Sections 6 through 20 of Chapter 521, Laws of 1995. Unexpended amounts remaining in the revolving fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned on amounts in the revolving fund shall be deposited to the credit of the fund. Monies in the revolving fund may not be used or expended for any purpose except as authorized under this section and Sections 6 through 20 of Chapter 521, Laws of 1995. Any monies in the fund may be used to match any federal funds that are available for the same or related purposes for which funds are used and expended under this section and Sections 6 through 20 of

95 Chapter 521, Laws of 1995. Any federal funds shall be used and  
96 expended only in accordance with federal laws, rules and  
97 regulations governing the expenditure of those funds. No person  
98 shall use any monies from the revolving fund for the acquisition  
99 of real property or any interest in real property unless that  
100 property is integral to the project funded under this section and  
101 the purchase is made from a willing seller. No county,  
102 incorporated municipality or district shall acquire any real  
103 property or any interest in any real property for a project funded  
104 through the revolving fund by condemnation. The board's  
105 application of Sections 43-37-1 through 43-37-13 shall be no more  
106 stringent or extensive in scope, coverage and effect than federal  
107 property acquisition laws and regulations.

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

127           (c) The board created in subsection (1) shall establish  
128 loan and grant programs by which loans and grants may be made  
129 available to counties, incorporated municipalities, districts or  
130 other water organizations that have been granted tax exempt status  
131 under either federal or state law, to assist those counties,  
132 incorporated municipalities, districts or water organizations in  
133 making water systems improvements, including the construction of  
134 new water systems or expansion or repair of existing water  
135 systems. Any entity eligible under this section may receive  
136 either a loan or a grant, or both. No grant awarded under the  
137 program established in this section may be made using funds from  
138 the loan program. Grants may be awarded only when the Legislature  
139 specifically appropriates funds for that particular purpose. The  
140 interest rate on those loans may vary from time to time and from  
141 loan to loan, and will be at or below market interest rates as  
142 determined by the board. The board shall act as quickly as is  
143 practicable and prudent in deciding on any loan request that it  
144 receives. Loans from the revolving fund or emergency fund may be  
145 made to counties, incorporated municipalities, districts or other  
146 water organizations that have been granted tax exempt status under  
147 either federal or state law, as set forth in a loan agreement in  
148 amounts not to exceed one hundred percent (100%) of eligible  
149 project costs as established by the board. The board may require  
150 county, municipal, district or other water organization  
151 participation or funding from other sources, or otherwise limit  
152 the percentage of costs covered by loans from the revolving fund  
153 or the emergency fund. \* \* \*

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

the revolving fund or the emergency fund shall pledge for repayment of the loan any part of the sales tax revenue distribution to which it may be entitled under Section 27-65-75, as may be required to meet the repayment schedule contained in the loan agreement. All recipients of such loans shall establish a dedicated source of revenue for repayment of the loan. Before any county or incorporated municipality shall receive any loan, it shall have executed with the State Tax Commission and the board a loan agreement evidencing that loan. The loan agreement shall not be construed to prohibit any recipient from prepaying any part or all of the funds received. The repayment schedule in each loan agreement shall provide for (i) monthly payments, (ii) semiannual payments or (iii) other periodic payments, the annual total of which shall not exceed the annual total for any other year of the loan by more than fifteen percent (15%). Except as otherwise provided in subsection (4) of this section, the loan agreement shall provide for the repayment of all funds received from the revolving fund within not more than fifteen (15) years or a term as otherwise allowed by the federal Safe Drinking Water Act, and all funds received from the emergency fund within not more than five (5) years from the date of project completion, and any repayment shall commence not later than one (1) year after project completion. The State Tax Commission shall withhold semiannually from counties and monthly from incorporated municipalities from the amount to be remitted to the county or municipality, a sum equal to the next repayment as provided in the loan agreement.

(e) Any county, incorporated municipality, district or other water organization desiring to construct a project approved by the board which receives a loan from the state for that purpose but which is not eligible to pledge for repayment under the provisions of paragraph (d) of this subsection, shall repay that loan by making payments each month to the State Treasurer through the Department of Finance and Administration for and on behalf of

the board according to Section 7-7-15, to be credited to either the revolving fund or the emergency fund, whichever is appropriate, in lieu of pledging homestead exemption annual tax loss reimbursement or sales tax revenue distribution.

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

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

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

(h) All monies deposited in the revolving fund or the emergency fund, including loan repayments and interest earned on 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 or  
252 grant recipient to impose a per connection fee or surcharge or  
253 amended water rate schedule or tariff on each customer or any  
254 class of customers, benefiting from an improvement financed by a  
255 loan or grant made under this section, for repayment of any loan  
256 funds provided under this section and Sections 6 through 20 of  
257 Chapter 521, Laws of 1995. The board may require any loan or  
258 grant recipient to undergo a water system viability analysis and

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

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

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

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

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

(h) To establish policies, procedures and requirements concerning viability and financial capability to repay loans that may be used in approving loans available under this section, including a requirement that all loan recipients have a rate

292 structure which will be sufficient to cover the costs of  
293 operation, maintenance, major equipment replacement and repayment  
294 of any loans made under this section; and

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

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

306           (4) The board may, on a case-by-case basis and to the extent  
307 allowed by federal law, renegotiate the payment of principal and  
308 interest on loans made under this section to the six (6) most  
309 southern counties of the state covered by the Presidential  
310 Declaration of Major Disaster for the State of Mississippi  
311 (FEMA-1604-DR) dated August 29, 2005, and to incorporated  
312 municipalities, districts or other water organizations located in  
313 such counties; however, the interest on the loans shall not be  
314 forgiven for a period of more than twenty-four (24) months and the  
315 maturity of the loans shall not be extended for a period of more  
316 than forty-eight (48) months.

317           **SECTION 2.** This act shall take effect and be in force from  
318 and after July 1, 2007.