

By: Senator(s) Moffatt

To: Finance

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 3193

1 AN ACT TO AUTHORIZE THE ISSUANCE OF STATE GENERAL OBLIGATION
2 BONDS IN THE AMOUNT OF \$9,827,600.00 TO PROVIDE MATCHING FUNDS FOR
3 FEDERAL FUNDS FOR THE WATER POLLUTION CONTROL REVOLVING FUND; TO
4 AMEND SECTION 49-17-85, MISSISSIPPI CODE OF 1972, TO AUTHORIZE
5 INTEREST AND INVESTMENT EARNINGS ON MONEY IN THE WATER POLLUTION
6 CONTROL REVOLVING FUND TO BE UTILIZED TO PAY DEBT SERVICE ON THE
7 BONDS AUTHORIZED TO BE ISSUED BY THIS ACT; AND FOR RELATED
8 PURPOSES.

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

10 **SECTION 1.** (1) As used in this section, the following words
11 shall have the meanings ascribed herein unless the context clearly
12 requires otherwise:

13 (a) "Accreted value" of any bonds means, as of any date
14 of computation, an amount equal to the sum of (i) the stated
15 initial value of such bond, plus (ii) the interest accrued thereon
16 from the issue date to the date of computation at the rate,
17 compounded semiannually, that is necessary to produce the
18 approximate yield to maturity shown for bonds of the same
19 maturity.

20 (b) "State" means the State of Mississippi.

21 (c) "Commission" means the State Bond Commission.

22 (2) (a) The Commission on Environmental Quality, at one
23 time, or from time to time, may declare by resolution the
24 necessity for issuance of general obligation bonds of the State of
25 Mississippi to provide funds for the Water Pollution Control
26 Revolving Fund established in Section 49-17-85. Upon the adoption
27 of a resolution by the Commission on Environmental Quality,
28 declaring the necessity for the issuance of any part or all of the
29 general obligation bonds authorized by this subsection, the
30 Commission on Environmental Quality shall deliver a certified copy

31 of its resolution or resolutions to the commission; however, the
32 commission shall declare the necessity for the issuance of bonds
33 only in the amount necessary to match projected federal funds
34 available through the following federal fiscal year. Upon receipt
35 of such resolution, the commission, in its discretion, may act as
36 the issuing agent, prescribe the form of the bonds, advertise for
37 and accept bids, issue and sell the bonds so authorized to be sold
38 and do any and all other things necessary and advisable in
39 connection with the issuance and sale of such bonds. The total
40 amount of bonds issued under this section shall not exceed Nine
41 Million Eight Hundred Twenty-seven Thousand Six Hundred Dollars
42 (\$9,827,600.00).

43 (b) The proceeds of bonds issued pursuant to this
44 subsection of this act shall be deposited into the Water Pollution
45 Control Revolving Fund created pursuant to Section 49-17-85.

46 (3) The principal of and interest on the bonds authorized
47 under this section shall be payable in the manner provided in this
48 section. Such bonds shall bear such date or dates, be in such
49 denomination or denominations, bear interest at such rate or rates
50 (not to exceed the limits set forth in Section 75-17-101,
51 Mississippi Code of 1972), be payable at such place or places
52 within or without the State of Mississippi, shall mature
53 absolutely at such time or times not to exceed twenty-five (25)
54 years from date of issue, be redeemable before maturity at such
55 time or times and upon such terms, with or without premium, shall
56 bear such registration privileges, and shall be substantially in
57 such form, all as shall be determined by resolution of the
58 commission.

59 (4) The bonds authorized by this section shall be signed by
60 the chairman of the commission, or by his facsimile signature, and
61 the official seal of the commission shall be affixed thereto,
62 attested by the secretary of the commission. The interest
63 coupons, if any, to be attached to such bonds may be executed by

64 the facsimile signatures of such officers. Whenever any such
65 bonds shall have been signed by the officials designated to sign
66 the bonds who were in office at the time of such signing but who
67 may have ceased to be such officers before the sale and delivery
68 of such bonds, or who may not have been in office on the date such
69 bonds may bear, the signatures of such officers upon such bonds
70 and coupons shall nevertheless be valid and sufficient for all
71 purposes and have the same effect as if the person so officially
72 signing such bonds had remained in office until their delivery to
73 the purchaser, or had been in office on the date such bonds may
74 bear. However, notwithstanding anything herein to the contrary,
75 such bonds may be issued as provided in the Registered Bond Act of
76 the State of Mississippi.

77 (5) All bonds and interest coupons issued under the
78 provisions of this section have all the qualities and incidents of
79 negotiable instruments under the provisions of the Uniform
80 Commercial Code, and in exercising the powers granted by this
81 section, the commission shall not be required to and need not
82 comply with the provisions of the Uniform Commercial Code.

83 (6) The commission shall act as the issuing agent for the
84 bonds authorized under this section, prescribe the form of the
85 bonds, advertise for and accept bids, issue and sell the bonds so
86 authorized to be sold, pay all fees and costs incurred in such
87 issuance and sale, and do any and all other things necessary and
88 advisable in connection with the issuance and sale of such bonds.
89 The commission is authorized and empowered to pay the costs that
90 are incident to the sale, issuance and delivery of the bonds
91 authorized under this section from the proceeds derived from the
92 sale of such bonds. The commission shall sell such bonds on
93 sealed bids at public sale, and for such price as it may determine
94 to be for the best interest of the State of Mississippi, but no
95 such sale shall be made at a price less than par plus accrued
96 interest to the date of delivery of the bonds to the purchaser.

97 All interest accruing on such bonds so issued shall be payable
98 semiannually or annually; however, the first interest payment may
99 be for any period of not more than one (1) year.

100 Notice of the sale of any such bonds shall be published at
101 least one time, not less than ten (10) days before the date of
102 sale, and shall be so published in one or more newspapers
103 published or having a general circulation in the City of Jackson,
104 Mississippi, and in one or more other newspapers or financial
105 journals with a national circulation, to be selected by the
106 commission.

107 The commission, when issuing any bonds under the authority of
108 this section, may provide that bonds, at the option of the State
109 of Mississippi, may be called in for payment and redemption at the
110 call price named therein and accrued interest on such date or
111 dates named therein.

112 (7) The bonds issued under the provisions of this section
113 are general obligations of the State of Mississippi, and for the
114 payment thereof the full faith and credit of the State of
115 Mississippi is irrevocably pledged. Interest and investment
116 earnings on money in the Water Pollution Control Revolving Fund
117 shall be utilized to pay the principal and interest on such bonds
118 as they become due. If the interest and investment earnings of
119 the fund and any funds appropriated by the Legislature are
120 insufficient to pay the principal of and the interest on such
121 bonds as they become due, then the deficiency shall be paid by the
122 State Treasurer from any funds in the State Treasury not otherwise
123 appropriated. All such bonds shall contain recitals on their
124 faces substantially covering the provisions of this section.

125 (8) Upon the issuance and sale of bonds under the provisions
126 of this section, the commission shall transfer the proceeds of any
127 such sale or sales to the Water Pollution Control Revolving Fund
128 created in Section 49-17-85. After the transfer of the proceeds
129 of any such sale or sales to the Water Pollution Control Revolving

130 Fund, any investment earnings or interest earned on the proceeds
131 of such bonds shall be deposited to the credit of the Water
132 Pollution Control Revolving Fund and shall be used only for the
133 purposes provided in Section 49-17-85. The proceeds of such bonds
134 shall be disbursed solely upon the order of the Commission on
135 Environmental Quality under such restrictions, if any, as may be
136 contained in the resolution providing for the issuance of the
137 bonds.

138 (9) The bonds authorized under this section may be issued
139 without any other proceedings or the happening of any other
140 conditions or things other than those proceedings, conditions and
141 things which are specified or required by this section. Any
142 resolution providing for the issuance of bonds under the
143 provisions of this section shall become effective immediately upon
144 its adoption by the commission, and any such resolution may be
145 adopted at any regular or special meeting of the commission by a
146 majority of its members.

147 (10) The bonds authorized under the authority of this
148 section may be validated in the Chancery Court of the First
149 Judicial District of Hinds County, Mississippi, in the manner and
150 with the force and effect provided by Chapter 13, Title 31,
151 Mississippi Code of 1972, for the validation of county, municipal,
152 school district and other bonds. The notice to taxpayers required
153 by such statutes shall be published in a newspaper published or
154 having a general circulation in the City of Jackson, Mississippi.

155 (11) Any holder of bonds issued under the provisions of this
156 section or of any of the interest coupons pertaining thereto may,
157 either at law or in equity, by suit, action, mandamus or other
158 proceeding, protect and enforce any and all rights granted under
159 this section, or under such resolution, and may enforce and compel
160 performance of all duties required by this section to be
161 performed, in order to provide for the payment of bonds and
162 interest thereon.

163 (12) All bonds issued under the provisions of this section
164 shall be legal investments for trustees and other fiduciaries, and
165 for savings banks, trust companies and insurance companies
166 organized under the laws of the State of Mississippi, and such
167 bonds shall be legal securities which may be deposited with and
168 shall be received by all public officers and bodies of this state
169 and all municipalities and political subdivisions for the purpose
170 of securing the deposit of public funds.

171 (13) Bonds issued under the provisions of this section and
172 income therefrom shall be exempt from all taxation in the State of
173 Mississippi.

174 (14) The proceeds of the bonds issued under this section
175 shall be used solely for the purposes therein provided, including
176 the costs incident to the issuance and sale of such bonds.

177 (15) The State Treasurer is authorized, without further
178 process of law, to certify to the Department of Finance and
179 Administration the necessity for warrants, and the Department of
180 Finance and Administration is authorized and directed to issue
181 such warrants, in such amounts as may be necessary to pay when due
182 the principal of, premium, if any, and interest on, or the
183 accreted value of, all bonds issued under this section; and the
184 State Treasurer shall forward the necessary amount to the
185 designated place or places of payment of such bonds in ample time
186 to discharge such bonds, or the interest thereon, on the due dates
187 thereof.

188 (16) This section shall be deemed to be full and complete
189 authority for the exercise of the powers therein granted, but this
190 section shall not be deemed to repeal or to be in derogation of
191 any existing law of this state.

192 **SECTION 2.** Section 49-17-85, Mississippi Code of 1972, is
193 amended as follows:

194 49-17-85. (1) There is established in the State Treasury a
195 fund to be known as the "Water Pollution Control Revolving Fund"

196 which shall be administered by the commission acting through the
197 department. The revolving fund may receive bond proceeds and
198 funds appropriated or otherwise made available by the Legislature
199 in any manner and funds from any other source, public or private.
200 The revolving fund shall be maintained in perpetuity for the
201 purposes established in this section.

202 (2) There is established in the State Treasury a fund to be
203 known as the "Water Pollution Control Hardship Grants Fund," which
204 shall be administered by the commission acting through the
205 department. The grants fund shall be maintained in perpetuity for
206 the purposes established in this section. Any interest earned on
207 monies in the grants fund shall be credited to that fund.

208 (3) The commission shall promulgate regulations for the
209 administration of the revolving fund program, the hardship grants
210 program and for related programs authorized under this section.
211 The regulations shall be in accordance with the federal Water
212 Quality Act of 1987, as amended and regulations and guidance
213 issued under that act. The commission may enter into
214 capitalization grant agreements with the United States
215 Environmental Protection Agency and may accept capitalization
216 grant awards made under Title VI of the Water Quality Act of 1987,
217 as amended.

218 (4) The commission shall establish a loan program which
219 shall commence after October 1, 1988, to assist political
220 subdivisions in the construction of water pollution control
221 projects. Loans from the revolving fund may be made to political
222 subdivisions as set forth in a loan agreement in amounts not
223 exceeding one hundred percent (100%) of eligible project costs as
224 established by the commission. Notwithstanding loan amount
225 limitations set forth in Section 49-17-61, the commission may
226 require local participation or funding from other sources, or
227 otherwise limit the percentage of costs covered by loans from the
228 revolving fund. The commission may establish a maximum amount for

229 any loan in order to provide for broad and equitable participation
230 in the program.

231 (5) The commission shall establish a hardship grants program
232 for rural communities, which shall commence after July 1, 1997, to
233 assist severely economically disadvantaged small rural political
234 subdivisions in the construction of water pollution control
235 projects. The commission may receive and administer state or
236 federal funds, or both, appropriated for the operation of this
237 grants program and may take all actions necessary to implement the
238 program in accordance with the federal hardship grants program.
239 The hardship grants program shall operate in conjunction with the
240 revolving loan program administered under this section.

241 (6) The commission shall act for the state in all matters
242 and with respect to all determinations under Title VI of the
243 federal Water Quality Act of 1987, as amended and the federal
244 Omnibus Appropriations and Recision Act of 1996.

245 (7) Except as otherwise provided in this section, the
246 revolving fund may be used only:

247 (a) To make loans on the condition that:

248 (i) The loans are made at or below market interest
249 rates, at terms not to exceed the maximum time allowed by federal
250 law after project completion; the interest rate and term may vary
251 from time to time and from loan to loan at the discretion of the
252 commission;

253 (ii) Periodic principal and interest payments will
254 commence when required by the commission but not later than one
255 (1) year after project completion and all loans will be fully
256 amortized when required by the commission but not later than the
257 maximum time allowed by federal law after project completion;

258 (iii) The recipient of a loan will establish a
259 dedicated source of revenue for repayment of loans;

260 (b) To buy or refinance the debt obligation of
261 political subdivisions at or below market rates, where the debt

262 obligations were incurred after March 7, 1985, and where the
263 projects were constructed in compliance with applicable federal
264 and state regulations;

265 (c) To guarantee, or purchase insurance for,
266 obligations of political subdivisions where the action would
267 improve credit market access or reduce interest rates;

268 (d) To provide loan guarantees for similar revolving
269 funds established by municipalities or intermunicipal agencies;

270 (e) To earn interest on fund accounts;

271 (f) To establish nonpoint source pollution control
272 management programs;

273 (g) To establish estuary conservation and management
274 programs;

275 (h) For the reasonable costs of administering the
276 revolving fund and conducting activities under this act, subject
277 to the limitations established in Section 603(d)(7) of Title VI of
278 the federal Clean Water Act, as amended, and subject to annual
279 appropriation by the Legislature; * * *

280 (i) In connection with the issuance, sale and purchase
281 of bonds under Section 31-25-1 et seq., related to the funding of
282 projects, to provide security or a pledge of revenues for the
283 repayment of the bonds; and

284 (j) To pay the principal and interest on bonds issued
285 pursuant to Section 1 of Senate Bill No. 3193, 2007, as they
286 become due; however, only interest and investment earnings on
287 money in the fund may be utilized for this purpose.

288 (8) The hardship grants program shall be used only to
289 provide hardship grants consistent with the federal hardship
290 grants program for rural communities, regulations and guidance
291 issued by the United States Environmental Protection Agency,
292 subsections (3) and (5) of this section and regulations
293 promulgated and guidance issued by the commission under this
294 section.

295 (9) The commission shall establish by regulation a system of
296 priorities and a priority list of projects eligible for funding
297 with loans from the revolving fund.

298 (10) The commission may provide a loan from the revolving
299 fund only with respect to a project if that project is on the
300 priority list established by the commission.

301 (11) The revolving fund shall be credited with all payments
302 of principal and interest derived from the fund uses described in
303 subsection (7) of this section. However, notwithstanding any
304 other provision of law to the contrary, all or any portion of
305 payments of principal and interest derived from the fund uses
306 described in subsection (7) of this section may be designated or
307 pledged for repayment of a loan as provided for in Section
308 31-25-28 in connection with a loan from the Mississippi
309 Development Bank.

310 (12) The commission may establish and collect fees to defray
311 the reasonable costs of administering the revolving fund if it
312 determines that the administrative costs will exceed the
313 limitations established in Section 603(d)(7) of Title VI of the
314 federal Clean Water Act, as amended. The administration fees may
315 be included in loan amounts to political subdivisions for the
316 purpose of facilitating payment to the commission. The fees may
317 not exceed five percent (5%) of the loan amount.

318 (13) The commission may, on a case-by-case basis and to the
319 extent allowed by federal law, renegotiate the payment of
320 principal and interest on loans made under this section to the six
321 (6) most southern counties of the state covered by the
322 Presidential Declaration of Major Disaster for the State of
323 Mississippi (FEMA-1604-DR) dated August 29, 2005, and to political
324 subdivisions located in such counties; however, the interest on
325 the loans shall not be forgiven for a period of more than
326 twenty-four (24) months and the maturity of the loans shall not be
327 extended for a period of more than forty-eight (48) months.

328 **SECTION 3.** This act shall take effect and be in force from
329 and after July 1, 2007, and shall stand repealed from and after
330 June 30, 2007.