

House Amendments to Senate Bill No. 2602

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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

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

69 (2) (a) There is created a special fund in the State
70 Treasury to be designated as the "Local Governments and Rural
71 Water Systems Improvements Revolving Loan Fund," referred to in
72 this section as "revolving fund," which fund shall consist of
73 those monies as provided in Sections 6 and 13 of Chapter 521, Laws
74 of 1995. The revolving fund may receive appropriations, bond
75 proceeds, grants, gifts, donations or funds from any source,
76 public or private. The revolving fund shall be credited with all
77 repayments of principal and interest derived from loans made from
78 the revolving fund. The monies in the revolving fund may be
79 expended only in amounts appropriated by the Legislature, and the
80 different amounts specifically provided for the loan program and
81 the grant program shall be so designated. Monies in the fund may
82 only be expended for the grant program from the amount designated
83 for such program. The revolving fund shall be maintained in
84 perpetuity for the purposes established in this section and
85 Sections 6 through 20 of Chapter 521, Laws of 1995. Unexpended
86 amounts remaining in the revolving fund at the end of a fiscal
87 year shall not lapse into the State General Fund, and any interest
88 earned on amounts in the revolving fund shall be deposited to the
89 credit of the fund. Monies in the revolving fund may not be used
90 or expended for any purpose except as authorized under this
91 section and Sections 6 through 20 of Chapter 521, Laws of 1995.
92 Any monies in the fund may be used to match any federal funds that
93 are available for the same or related purposes for which funds are
94 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. The maximum amount for any loan from the
154 emergency fund shall be Seven Hundred Fifty Thousand Dollars
155 (\$750,000.00), and the maximum amount for any loan from the
156 revolving fund shall be Two Million Two Hundred Fifty Thousand
157 Dollars (\$2,250,000.00).

158 (d) A county that receives a loan from the revolving
159 fund or the emergency fund shall pledge for repayment of the loan
160 any part of the homestead exemption annual tax loss reimbursement
161 to which it may be entitled under Section 27-33-77, as may be
162 required to meet the repayment schedule contained in the loan
163 agreement. An incorporated municipality that receives a loan from
164 the revolving fund or the emergency fund shall pledge for
165 repayment of the loan any part of the sales tax revenue
166 distribution to which it may be entitled under Section 27-65-75,
167 as may be required to meet the repayment schedule contained in the
168 loan agreement. All recipients of such loans shall establish a
169 dedicated source of revenue for repayment of the loan. Before any
170 county or incorporated municipality shall receive any loan, it

171 shall have executed with the State Tax Commission and the board a
172 loan agreement evidencing that loan. The loan agreement shall not
173 be construed to prohibit any recipient from prepaying any part or
174 all of the funds received. The repayment schedule in each loan
175 agreement shall provide for (i) monthly payments, (ii) semiannual
176 payments or (iii) other periodic payments, the annual total of
177 which shall not exceed the annual total for any other year of the
178 loan by more than fifteen percent (15%). Except as otherwise
179 provided in subsection (4) of this section, the loan agreement
180 shall provide for the repayment of all funds received from the
181 revolving fund within not more than fifteen (15) years or a term
182 as otherwise allowed by the federal Safe Drinking Water Act, and
183 all funds received from the emergency fund within not more than
184 five (5) years from the date of project completion, and any
185 repayment shall commence not later than one (1) year after project
186 completion. The State Tax Commission shall withhold semiannually
187 from counties and monthly from incorporated municipalities from
188 the amount to be remitted to the county or municipality, a sum
189 equal to the next repayment as provided in the loan agreement.

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

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

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

206 the emergency fund shall pledge for repayment of the loan any part
207 of the revenues received by that district pursuant to Sections
208 19-5-151 through 19-5-207, as may be required to meet the
209 repayment schedule contained in the loan agreement.

210 (g) The State Auditor, upon request of the board, shall
211 audit the receipts and expenditures of a county, an incorporated
212 municipality, district or other water organization whose loan
213 repayments appear to be in arrears, and if the Auditor finds that
214 the county, incorporated municipality, district or other water
215 organization is in arrears in those repayments, the Auditor shall
216 immediately notify the chairman of the board who may take any
217 action as may be necessary to enforce the terms of the loan
218 agreement, including liquidation and enforcement of the security
219 given for repayment of the loan, and the Executive Director of the
220 Department of Finance and Administration who shall withhold all
221 future payments to the county of homestead exemption annual tax
222 loss reimbursements under Section 27-33-77 and all sums allocated
223 to the county or the incorporated municipality under Section
224 27-65-75 until such time as the county or the incorporated
225 municipality is again current in its loan repayments as certified
226 by the board.

227 (h) All monies deposited in the revolving fund or the
228 emergency fund, including loan repayments and interest earned on
229 those repayments, shall be used only for providing loans or other
230 financial assistance to water systems as the board deems
231 appropriate. In addition, any amounts in the revolving fund or
232 the emergency fund may be used to defray the reasonable costs of
233 administering the revolving fund or the emergency fund and
234 conducting activities under this section and Sections 6 through 20
235 of Chapter 521, Laws of 1995, subject to any limitations
236 established in the federal Safe Drinking Water Act, as amended and
237 subject to annual appropriation by the Legislature. The
238 department is authorized, upon approval by the board, to use
239 amounts available to it from the revolving fund or the emergency
240 fund to contract for those facilities and staff needed to

241 administer and provide routine management for the funds and loan
242 program.

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

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

250 (b) To promulgate rules and regulations, to make
251 variances and exceptions thereto, and to establish procedures in
252 accordance with this section and Sections 6 through 20 of Chapter
253 521, Laws of 1995, for the implementation of the local governments
254 and rural water systems improvements revolving loan program;

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

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

274 (e) To requisition monies in the Local Governments and
275 Rural Water Systems Improvements Revolving Loan Fund and the Local

276 Governments and Rural Water Systems Emergency Loan Fund and
277 distribute those monies on a project-by-project basis in
278 accordance with this section;

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

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

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

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

306 For efficient and effective administration of the loan
307 program, revolving fund and emergency fund, the board may
308 authorize the department or the State Health Officer to carry out
309 any or all of the powers and duties enumerated above.

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

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

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

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

HR03\SB2602A.J

Don Richardson
Clerk of the House of Representatives