

**Adopted  
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

**Senate Bill No. 2602**

**BY: Committee**

**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.