

By: Representative Warren

To: Public Health and Human
Services

HOUSE BILL NO. 211

1 AN ACT TO REENACT SECTIONS 41-3-1.1 THROUGH 41-3-19,
2 MISSISSIPPI CODE OF 1972, WHICH CREATE THE RECONSTITUTED STATE
3 BOARD OF HEALTH, ESTABLISH THE POSITION OF EXECUTIVE OFFICER OF
4 THE STATE DEPARTMENT OF HEALTH AND ESTABLISH THE STATE DEPARTMENT
5 OF HEALTH AND PRESCRIBE ITS POWERS AND DUTIES; TO AMEND SECTION
6 41-3-20, MISSISSIPPI CODE OF 1972, TO EXTEND THE REPEALER ON THE
7 RECONSTITUTED STATE BOARD OF HEALTH, THE EXECUTIVE OFFICER OF THE
8 STATE DEPARTMENT OF HEALTH AND THE STATE DEPARTMENT OF HEALTH TO
9 JUNE 30, 2013; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 41-3-1.1, Mississippi Code of 1972, is
12 reenacted as follows:

13 41-3-1.1. (1) The State Board of Health is continued and
14 reconstituted as follows:

15 There is created the State Board of Health which, from and
16 after March 30, 2007, shall consist of eleven (11) members
17 appointed with the advice and consent of the Senate, as follows:

18 (a) Five (5) members of the board shall be currently
19 licensed physicians of good professional standing who have had at
20 least seven (7) years' experience in the practice of medicine in
21 this state. Three (3) members shall be appointed by the Governor,
22 one (1) member shall be appointed by the Lieutenant Governor, and
23 one (1) member shall be appointed by the Attorney General, in the
24 manner provided in paragraph (d) of this subsection (1).

25 (b) Six (6) members of the board shall be individuals
26 who have a background in public health or an interest in public
27 health who are not currently or formerly licensed physicians.

28 Four (4) of those members shall be appointed by the Governor, one
29 (1) of those members shall be appointed by the Lieutenant
30 Governor, and one (1) of those members shall be appointed by the



31 Attorney General, in the manner provided in paragraph (d) of this
32 subsection (1).

33 (c) The Governor, Lieutenant Governor and Attorney
34 General shall give due regard to geographic distribution, race and
35 gender in making their appointments to the board. It is the
36 intent of the Legislature that the membership of the board reflect
37 the population of the State of Mississippi. Of the Governor's
38 appointments, one (1) member of the board shall be appointed from
39 each of the four (4) congressional districts as constituted on
40 June 30, 2007, and one (1) member of the board shall be appointed
41 from each of the three (3) Supreme Court districts as constituted
42 on June 30, 2007. Of the Lieutenant Governor's appointments, one
43 (1) member of the board shall be appointed from the First
44 Congressional District and one (1) member of the board shall be
45 appointed from the Fourth Congressional District as constituted on
46 June 30, 2007. Of the Attorney General's appointments, one (1)
47 member of the board shall be appointed from the Second
48 Congressional District and one (1) member of the board shall be
49 appointed from the Third Congressional District as constituted on
50 June 30, 2007.

51 (d) The initial members of the board shall be appointed
52 for staggered terms, as follows: Of the Governor's appointments,
53 two (2) members shall be appointed for terms that end on June 30,
54 2009; two (2) members shall be appointed for terms that end on
55 June 30, 2011; and three (3) members shall be appointed for terms
56 that end on June 30, 2013. Of the Lieutenant Governor's
57 appointments, one (1) member shall be appointed for a term that
58 ends on June 30, 2009; and one (1) member shall be appointed for a
59 term that ends on June 30, 2013. Of the Attorney General's
60 appointments, one (1) member shall be appointed for a term that
61 ends on June 30, 2009; and one (1) member shall be appointed for a
62 term that ends on June 30, 2011.



63 A member of the board serving before January 1, 2007, shall
64 be eligible for reappointment to the reconstituted board unless
65 the person is disqualified under subsection (4) of this section.

66 (2) At the expiration of the terms of the initial members,
67 all members of the board shall be appointed by the Governor, in
68 the same manner and from the same districts prescribed in
69 subsection (1) of this section, for terms of six (6) years from
70 the expiration of the previous term and thereafter until his or
71 her successor is duly appointed. Vacancies in office shall be
72 filled by appointment in the same manner as the appointment to the
73 position that becomes vacant, subject to the advice and consent of
74 the Senate at the next regular session of the Legislature. An
75 appointment to fill a vacancy other than by expiration of a term
76 of office shall be for the balance of the unexpired term and
77 thereafter until his or her successor is duly appointed.

78 (3) The Lieutenant Governor may designate one (1) Senator
79 and the Speaker of the House of Representatives may designate one
80 (1) Representative to attend any meeting of the State Board of
81 Health. The appointing authorities may designate alternate
82 members from their respective houses to serve when the regular
83 designees are unable to attend the meetings of the board. Those
84 legislative designees shall have no jurisdiction or vote on any
85 matter within the jurisdiction of the board. For attending
86 meetings of the board, the legislators shall receive per diem and
87 expenses, which shall be paid from the contingent expense funds of
88 their respective houses in the same amounts as provided for
89 committee meetings when the Legislature is not in session;
90 however, no per diem and expenses for attending meetings of the
91 board will be paid while the Legislature is in session. No per
92 diem and expenses will be paid except for attending meetings of
93 the board without prior approval of the proper committee in their
94 respective houses.



95 (4) (a) All members of the State Board of Health shall file
96 with the Mississippi Ethics Commission, before the first day of
97 May each year, the statement of economic interest as required by
98 Sections 25-4-25 through 25-4-29.

99 (b) No member of the board shall participate in any
100 action by the board or department if that action could have any
101 monetary effect on any business with which that member is
102 associated, as defined in Section 25-4-103.

103 (c) When any matter in which a member may not
104 participate comes before the board or department, that member must
105 fully recuse himself or herself from the entire matter. The
106 member shall avoid debating, discussing or taking action on the
107 subject matter during official meetings or deliberations by
108 leaving the meeting room before the matter comes before the board
109 and by returning only after the discussion, vote or other action
110 is completed. The member shall not discuss the matter with other
111 members, department staff or any other person. Any minutes or
112 other record of the meeting shall accurately reflect the recusal.
113 If a member is uncertain whether recusal is required, the member
114 shall follow the determination of the Mississippi Ethics
115 Commission. The commission may delegate that determination to its
116 executive director.

117 (d) Upon a determination by the board or by any court
118 of competent jurisdiction that a member of the board has violated
119 the provisions of this subsection (4) regarding recusal, the
120 member shall be removed from office. Any member of the board who
121 violates the provisions of this section regarding recusal also
122 shall be subject to the penalties set forth in Sections 25-4-109
123 through 25-4-117. After removal from office, the member shall not
124 be eligible for appointment to any agency, board or commission of
125 the state for a period of two (2) years. Nothing in this section
126 shall be construed to limit the restrictions codified in Section
127 25-4-105.



128 **SECTION 2.** Section 41-3-3, Mississippi Code of 1972, is
129 reenacted as follows:

130 41-3-3. Each person appointed as a member of the State Board
131 of Health shall immediately take the oath prescribed by Section
132 268 of the Constitution and file a certificate thereof in the
133 Office of the Secretary of State. Thereupon a commission shall be
134 issued to him under the terms as specified in Section 41-3-1.

135 **SECTION 3.** Section 41-3-4, Mississippi Code of 1972, is
136 reenacted as follows:

137 41-3-4. (1) There shall be a Chairman and Vice Chairman of
138 the State Board of Health elected by and from its membership at
139 the first meeting of the board; and the chairman shall be the
140 presiding officer of the board. The chairman shall always be a
141 physician member of the board. The board shall adopt rules and
142 regulations governing times and places for meetings, and governing
143 the manner of conducting its business. The board shall meet not
144 less frequently than once each quarter, and at such other times as
145 determined to be necessary. The term of office of any member who
146 does not attend three (3) consecutive regular meetings of the
147 board shall be automatically terminated, and the position shall be
148 considered as vacant, except in cases of the serious illness of a
149 board member or of his or her immediate family member. All
150 meetings of the board shall be called by the chairman or by a
151 majority of the members of the board, except the first meeting of
152 the initial members of the reconstituted board, which shall be
153 called by the Governor.

154 (2) The members of the board shall receive no annual salary
155 but shall receive per diem compensation as is authorized by law
156 for each day devoted to the discharge of official board duties and
157 shall be entitled to reimbursement for all actual and necessary
158 expenses incurred in the discharge of their duties, including
159 mileage as authorized by Section 25-3-41.



160 **SECTION 4.** Section 41-3-5.1, Mississippi Code of 1972, is
161 reenacted as follows:

162 41-3-5.1. The State Department of Health shall be headed by
163 an executive officer who shall be appointed by the State Board of
164 Health. The executive officer shall be either a physician who has
165 earned a graduate degree in public health or health care
166 administration, or a physician who in the opinion of the board is
167 fitted and equipped to execute the duties incumbent upon him or
168 her by law. The executive officer shall not engage in the private
169 practice of medicine. The term of office of the executive officer
170 shall be six (6) years, and the executive officer may be removed
171 for cause by majority vote of the members of the board. The
172 executive officer shall be subject to such rules and regulations
173 as may be prescribed by the State Board of Health. The executive
174 officer shall be the State Health Officer with such authority and
175 responsibility as is prescribed by law.

176 **SECTION 5.** Section 41-3-6, Mississippi Code of 1972, is
177 reenacted as follows:

178 41-3-6. It shall be the duty of the State Board of Health to
179 review the statutes of the State of Mississippi affecting public
180 health and submit at least thirty (30) days prior to each regular
181 session of the Legislature any proposed legislation as may be
182 necessary to enhance the effective and efficient delivery of
183 public health services and to bring existing statutes into
184 compliance with modern technology and terminology. The board
185 shall formulate a plan for consolidating and reorganizing existing
186 state agencies having responsibilities in the field of public
187 health to eliminate any needless duplication in services which may
188 be found to exist. In carrying out the provisions of this
189 section, the State Board of Health shall cooperate with and may
190 utilize the services, facilities and personnel of any department
191 or agency of the state, any private citizen task force and the
192 committees on public health of both houses of the Legislature.



193 The State Board of Health is authorized to apply for and expend
194 funds made available to it by grant from any source in order to
195 perform its responsibilities under this section.

196 **SECTION 6.** Section 41-3-15, Mississippi Code of 1972, is
197 reenacted as follows:

198 41-3-15. (1) (a) There shall be a State Department of
199 Health.

200 (b) The State Board of Health shall have the following
201 powers and duties:

202 (i) To formulate the policy of the State
203 Department of Health regarding public health matters within the
204 jurisdiction of the department;

205 (ii) To adopt, modify, repeal and promulgate,
206 after due notice and hearing, and enforce rules and regulations
207 implementing or effectuating the powers and duties of the
208 department under any and all statutes within the department's
209 jurisdiction, and as the board may deem necessary;

210 (iii) To apply for, receive, accept and expend any
211 federal or state funds or contributions, gifts, trusts, devises,
212 bequests, grants, endowments or funds from any other source or
213 transfers of property of any kind;

214 (iv) To enter into, and to authorize the executive
215 officer to execute, contracts, grants and cooperative agreements
216 with any federal or state agency or subdivision thereof, or any
217 public or private institution located inside or outside the State
218 of Mississippi, or any person, corporation or association in
219 connection with carrying out the provisions of this chapter, if it
220 finds those actions to be in the public interest and the contracts
221 or agreements do not have a financial cost that exceeds the
222 amounts appropriated for those purposes by the Legislature;

223 (v) To appoint, upon recommendation of the
224 Executive Officer of the State Department of Health, a Director of
225 Internal Audit who shall be either a Certified Public Accountant



226 or Certified Internal Auditor, and whose employment shall be
227 continued at the discretion of the board, and who shall report
228 directly to the board, or its designee; and

229 (vi) To discharge such other duties,
230 responsibilities and powers as are necessary to implement the
231 provisions of this chapter.

232 (c) The Executive Officer of the State Department of
233 Health shall have the following powers and duties:

234 (i) To administer the policies of the State Board
235 of Health within the authority granted by the board;

236 (ii) To supervise and direct all administrative
237 and technical activities of the department, except that the
238 department's internal auditor shall be subject to the sole
239 supervision and direction of the board;

240 (iii) To organize the administrative units of the
241 department in accordance with the plan adopted by the board and,
242 with board approval, alter the organizational plan and reassign
243 responsibilities as he or she may deem necessary to carry out the
244 policies of the board;

245 (iv) To coordinate the activities of the various
246 offices of the department;

247 (v) To employ, subject to regulations of the State
248 Personnel Board, qualified professional personnel in the subject
249 matter or fields of each office, and such other technical and
250 clerical staff as may be required for the operation of the
251 department. The executive officer shall be the appointing
252 authority for the department, and shall have the power to delegate
253 the authority to appoint or dismiss employees to appropriate
254 subordinates, subject to the rules and regulations of the State
255 Personnel Board;

256 (vi) To recommend to the board such studies and
257 investigations as he or she may deem appropriate, and to carry out



258 the approved recommendations in conjunction with the various
259 offices;

260 (vii) To prepare and deliver to the Legislature
261 and the Governor on or before January 1 of each year, and at such
262 other times as may be required by the Legislature or Governor, a
263 full report of the work of the department and the offices thereof,
264 including a detailed statement of expenditures of the department
265 and any recommendations the board may have;

266 (viii) To prepare and deliver to the Chairmen of
267 the Public Health and Welfare/Human Services Committees of the
268 Senate and House on or before January 1 of each year, a plan for
269 monitoring infant mortality in Mississippi and a full report of
270 the work of the department on reducing Mississippi's infant
271 mortality and morbidity rates and improving the status of maternal
272 and infant health; and

273 (ix) To enter into contracts, grants and
274 cooperative agreements with any federal or state agency or
275 subdivision thereof, or any public or private institution located
276 inside or outside the State of Mississippi, or any person,
277 corporation or association in connection with carrying out the
278 provisions of this chapter, if he or she finds those actions to be
279 in the public interest and the contracts or agreements do not have
280 a financial cost that exceeds the amounts appropriated for those
281 purposes by the Legislature. Each contract or agreement entered
282 into by the executive officer shall be submitted to the board
283 before its next meeting.

284 (2) The State Board of Health shall have the authority to
285 establish an Office of Rural Health within the department. The
286 duties and responsibilities of this office shall include the
287 following:

288 (a) To collect and evaluate data on rural health
289 conditions and needs;



290 (b) To engage in policy analysis, policy development
291 and economic impact studies with regard to rural health issues;

292 (c) To develop and implement plans and provide
293 technical assistance to enable community health systems to respond
294 to various changes in their circumstances;

295 (d) To plan and assist in professional recruitment and
296 retention of medical professionals and assistants; and

297 (e) To establish information clearinghouses to improve
298 access to and sharing of rural health care information.

299 (3) The State Board of Health shall have general supervision
300 of the health interests of the people of the state and to exercise
301 the rights, powers and duties of those acts which it is authorized
302 by law to enforce.

303 (4) The State Board of Health shall have authority:

304 (a) To make investigations and inquiries with respect
305 to the causes of disease and death, and to investigate the effect
306 of environment, including conditions of employment and other
307 conditions that may affect health, and to make such other
308 investigations as it may deem necessary for the preservation and
309 improvement of health.

310 (b) To make such sanitary investigations as it may,
311 from time to time, deem necessary for the protection and
312 improvement of health and to investigate nuisance questions that
313 affect the security of life and health within the state.

314 (c) To direct and control sanitary and quarantine
315 measures for dealing with all diseases within the state possible
316 to suppress same and prevent their spread.

317 (d) To obtain, collect and preserve such information
318 relative to mortality, morbidity, disease and health as may be
319 useful in the discharge of its duties or may contribute to the
320 prevention of disease or the promotion of health in this state.

321 (e) To charge and collect reasonable fees for health
322 services, including immunizations, inspections and related



323 activities, and the board shall charge fees for those services;
324 provided, however, if it is determined that a person receiving
325 services is unable to pay the total fee, the board shall collect
326 any amount that the person is able to pay.

327 (f) (i) To establish standards for, issue permits and
328 exercise control over, any cafes, restaurants, food or drink
329 stands, sandwich manufacturing establishments, and all other
330 establishments, other than churches, church-related and private
331 schools, and other nonprofit or charitable organizations, where
332 food or drink is regularly prepared, handled and served for pay;
333 and

334 (ii) To require that a permit be obtained from the
335 Department of Health before those persons begin operation. If any
336 such person fails to obtain the permit required in this
337 subparagraph (ii), the State Board of Health, after due notice and
338 opportunity for a hearing, may impose a monetary penalty not to
339 exceed One Thousand Dollars (\$1,000.00) for each violation.
340 However, the department is not authorized to impose a monetary
341 penalty against any person whose gross annual prepared food sales
342 are less than Five Thousand Dollars (\$5,000.00). Money collected
343 by the board under this subparagraph (ii) shall be deposited to
344 the credit of the State General Fund of the State Treasury.

345 (g) To promulgate rules and regulations and exercise
346 control over the production and sale of milk pursuant to the
347 provisions of Sections 75-31-41 through 75-31-49.

348 (h) On presentation of proper authority, to enter into
349 and inspect any public place or building where the State Health
350 Officer or his representative deems it necessary and proper to
351 enter for the discovery and suppression of disease and for the
352 enforcement of any health or sanitary laws and regulations in the
353 state.

354 (i) To conduct investigations, inquiries and hearings,
355 and to issue subpoenas for the attendance of witnesses and the



356 production of books and records at any hearing when authorized and
357 required by statute to be conducted by the State Health Officer or
358 the State Board of Health.

359 (j) To promulgate rules and regulations, and to collect
360 data and information, on (i) the delivery of services through the
361 practice of telemedicine; and (ii) the use of electronic records
362 for the delivery of telemedicine services.

363 (k) To enforce and regulate domestic and imported fish
364 as authorized under Section 69-7-601 et seq.

365 (5) (a) The State Board of Health shall have the authority,
366 in its discretion, to establish programs to promote the public
367 health, to be administered by the State Department of Health.
368 Specifically, those programs may include, but shall not be limited
369 to, programs in the following areas:

370 (i) Maternal and child health;

371 (ii) Family planning;

372 (iii) Pediatric services;

373 (iv) Services to crippled and disabled children;

374 (v) Control of communicable and noncommunicable
375 disease;

376 (vi) Chronic disease;

377 (vii) Accidental deaths and injuries;

378 (viii) Child care licensure;

379 (ix) Radiological health;

380 (x) Dental health;

381 (xi) Milk sanitation;

382 (xii) Occupational safety and health;

383 (xiii) Food, vector control and general
384 sanitation;

385 (xiv) Protection of drinking water;

386 (xv) Sanitation in food handling establishments
387 open to the public;



388 (xvi) Registration of births and deaths and other
389 vital events;

390 (xvii) Such public health programs and services as
391 may be assigned to the State Board of Health by the Legislature or
392 by executive order; and

393 (xviii) Regulation of domestic and imported fish
394 for human consumption.

395 (b) The State Board of Health and State Department of
396 Health shall not be authorized to sell, transfer, alienate or
397 otherwise dispose of any of the home health agencies owned and
398 operated by the department on January 1, 1995, and shall not be
399 authorized to sell, transfer, assign, alienate or otherwise
400 dispose of the license of any of those home health agencies,
401 except upon the specific authorization of the Legislature by an
402 amendment to this section. However, this paragraph (b) shall not
403 prevent the board or the department from closing or terminating
404 the operation of any home health agency owned and operated by the
405 department, or closing or terminating any office, branch office or
406 clinic of any such home health agency, or otherwise discontinuing
407 the providing of home health services through any such home health
408 agency, office, branch office or clinic, if the board first
409 demonstrates that there are other providers of home health
410 services in the area being served by the department's home health
411 agency, office, branch office or clinic that will be able to
412 provide adequate home health services to the residents of the area
413 if the department's home health agency, office, branch office or
414 clinic is closed or otherwise discontinues the providing of home
415 health services. This demonstration by the board that there are
416 other providers of adequate home health services in the area shall
417 be spread at length upon the minutes of the board at a regular or
418 special meeting of the board at least thirty (30) days before a
419 home health agency, office, branch office or clinic is proposed to



420 be closed or otherwise discontinue the providing of home health
421 services.

422 (c) The State Department of Health may undertake such
423 technical programs and activities as may be required for the
424 support and operation of those programs, including maintaining
425 physical, chemical, bacteriological and radiological laboratories,
426 and may make such diagnostic tests for diseases and tests for the
427 evaluation of health hazards as may be deemed necessary for the
428 protection of the people of the state.

429 (6) (a) The State Board of Health shall administer the
430 local governments and rural water systems improvements loan
431 program in accordance with the provisions of Section 41-3-16.

432 (b) The State Board of Health shall have authority:

433 (i) To enter into capitalization grant agreements
434 with the United States Environmental Protection Agency, or any
435 successor agency thereto;

436 (ii) To accept capitalization grant awards made
437 under the federal Safe Drinking Water Act, as amended;

438 (iii) To provide annual reports and audits to the
439 United States Environmental Protection Agency, as may be required
440 by federal capitalization grant agreements; and

441 (iv) To establish and collect fees to defray the
442 reasonable costs of administering the revolving fund or emergency
443 fund if the State Board of Health determines that those costs will
444 exceed the limitations established in the federal Safe Drinking
445 Water Act, as amended. The administration fees may be included in
446 loan amounts to loan recipients for the purpose of facilitating
447 payment to the board; however, those fees may not exceed five
448 percent (5%) of the loan amount.

449 **SECTION 7.** Section 41-3-16, Mississippi Code of 1972, is
450 reenacted as follows:

451 41-3-16. (1) (a) There is established a local governments
452 and rural water systems improvements revolving loan and grant



453 program to be administered by the State Department of Health,
454 referred to in this section as "department," for the purpose of
455 assisting counties, incorporated municipalities, districts or
456 other water organizations that have been granted tax exempt status
457 under either federal or state law, in making improvements to their
458 water systems, including construction of new water systems or
459 expansion or repair of existing water systems. Loan and grant
460 proceeds may be used by the recipient for planning, professional
461 services, acquisition of interests in land, acquisition of
462 personal property, construction, construction-related services,
463 maintenance, and any other reasonable use which the board, in its
464 discretion, may allow. For purposes of this section, "water
465 systems" has the same meaning as the term "public water system"
466 under Section 41-26-3.

467 (b) (i) There is created a board to be known as the
468 "Local Governments and Rural Water Systems Improvements Board,"
469 referred to in this section as "board," to be composed of the
470 following nine (9) members: the State Health Officer, or his
471 designee, who shall serve as chairman of the board; the Executive
472 Director of the Mississippi Development Authority, or his
473 designee; the Executive Director of the Department of
474 Environmental Quality, or his designee; the Executive Director of
475 the Department of Finance and Administration, or his designee; the
476 Executive Director of the Mississippi Association of Supervisors,
477 or his designee; the Executive Director of the Mississippi
478 Municipal League, or his designee; the Executive Director of the
479 American Council of Engineering Companies of Mississippi, or his
480 designee; the State Director of the United States Department of
481 Agriculture, Rural Development, or his designee; and a manager of
482 a rural water system.

483 The Governor shall appoint a manager of a rural water system
484 from a list of candidates provided by the Executive Director of
485 the Mississippi Rural Water Association. The Executive Director



486 of the Mississippi Rural Water Association shall provide the
487 Governor a list of candidates which shall contain a minimum of
488 three (3) candidates for each appointment.

489 (ii) Nonappointed members of the board may
490 designate another representative of their agency or association to
491 serve as an alternate.

492 (iii) The gubernatorial appointee shall serve a
493 term concurrent with the term of the Governor and until a
494 successor is appointed and qualified. No member, officer or
495 employee of the Board of Directors of the Mississippi Rural Water
496 Association shall be eligible for appointment.

497 (c) The department, if requested by the board, shall
498 furnish the board with facilities and staff as needed to
499 administer this section. The department may contract, upon
500 approval by the board, for those facilities and staff needed to
501 administer this section, including routine management, as it deems
502 necessary. The board may advertise for or solicit proposals from
503 public or private sources, or both, for administration of this
504 section or any services required for administration of this
505 section or any portion thereof. It is the intent of the
506 Legislature that the board endeavor to ensure that the costs of
507 administration of this section are as low as possible in order to
508 provide the water consumers of Mississippi safe drinking water at
509 affordable prices.

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

513 (2) (a) There is created a special fund in the State
514 Treasury to be designated as the "Local Governments and Rural
515 Water Systems Improvements Revolving Loan Fund," referred to in
516 this section as "revolving fund," which fund shall consist of
517 those monies as provided in Sections 6 and 13 of Chapter 521, Laws
518 of 1995. The revolving fund may receive appropriations, bond



519 proceeds, grants, gifts, donations or funds from any source,
520 public or private. The revolving fund shall be credited with all
521 repayments of principal and interest derived from loans made from
522 the revolving fund. The monies in the revolving fund may be
523 expended only in amounts appropriated by the Legislature, and the
524 different amounts specifically provided for the loan program and
525 the grant program shall be so designated. Monies in the fund may
526 only be expended for the grant program from the amount designated
527 for such program. The revolving fund shall be maintained in
528 perpetuity for the purposes established in this section and
529 Sections 6 through 20 of Chapter 521, Laws of 1995. Unexpended
530 amounts remaining in the revolving fund at the end of a fiscal
531 year shall not lapse into the State General Fund, and any interest
532 earned on amounts in the revolving fund shall be deposited to the
533 credit of the fund. Monies in the revolving fund may not be used
534 or expended for any purpose except as authorized under this
535 section and Sections 6 through 20 of Chapter 521, Laws of 1995.
536 Any monies in the fund may be used to match any federal funds that
537 are available for the same or related purposes for which funds are
538 used and expended under this section and Sections 6 through 20 of
539 Chapter 521, Laws of 1995. Any federal funds shall be used and
540 expended only in accordance with federal laws, rules and
541 regulations governing the expenditure of those funds. No person
542 shall use any monies from the revolving fund for the acquisition
543 of real property or any interest in real property unless that
544 property is integral to the project funded under this section and
545 the purchase is made from a willing seller. No county,
546 incorporated municipality or district shall acquire any real
547 property or any interest in any real property for a project funded
548 through the revolving fund by condemnation. The board's
549 application of Sections 43-37-1 through 43-37-13 shall be no more
550 stringent or extensive in scope, coverage and effect than federal
551 property acquisition laws and regulations.



552 (b) There is created a special fund in the State
553 Treasury to be designated as the "Local Governments and Rural
554 Water Systems Emergency Loan Fund," hereinafter referred to as
555 "emergency fund," which fund shall consist of those monies as
556 provided in Sections 6 and 13 of Chapter 521, Laws of 1995. The
557 emergency fund may receive appropriations, bond proceeds, grants,
558 gifts, donations or funds from any source, public or private. The
559 emergency fund shall be credited with all repayments of principal
560 and interest derived from loans made from the emergency fund. The
561 monies in the emergency fund may be expended only in amounts
562 appropriated by the Legislature. The emergency fund shall be
563 maintained in perpetuity for the purposes established in this
564 section and Section 6 of Chapter 521, Laws of 1995. Unexpended
565 amounts remaining in the emergency fund at the end of a fiscal
566 year shall not lapse into the State General Fund. Any interest
567 earned on amounts in the emergency fund shall be deposited to the
568 credit of the fund. Monies in the emergency fund may not be used
569 or expended for any purpose except as authorized under this
570 section and Section 6 of Chapter 521, Laws of 1995.

571 (c) The board created in subsection (1) shall establish
572 loan and grant programs by which loans and grants may be made
573 available to counties, incorporated municipalities, districts or
574 other water organizations that have been granted tax exempt status
575 under either federal or state law, to assist those counties,
576 incorporated municipalities, districts or water organizations in
577 making water systems improvements, including the construction of
578 new water systems or expansion or repair of existing water
579 systems. Any entity eligible under this section may receive
580 either a loan or a grant, or both. No grant awarded under the
581 program established in this section may be made using funds from
582 the loan program. Grants may be awarded only when the Legislature
583 specifically appropriates funds for that particular purpose. The
584 interest rate on those loans may vary from time to time and from



585 loan to loan, and will be at or below market interest rates as
586 determined by the board. The board shall act as quickly as is
587 practicable and prudent in deciding on any loan request that it
588 receives. Loans from the revolving fund or emergency fund may be
589 made to counties, incorporated municipalities, districts or other
590 water organizations that have been granted tax exempt status under
591 either federal or state law, as set forth in a loan agreement in
592 amounts not to exceed one hundred percent (100%) of eligible
593 project costs as established by the board. The board may require
594 county, municipal, district or other water organization
595 participation or funding from other sources, or otherwise limit
596 the percentage of costs covered by loans from the revolving fund
597 or the emergency fund. The board may establish a maximum amount
598 for any loan from the revolving fund or emergency fund in order to
599 provide for broad and equitable participation in the programs.

600 (d) A county that receives a loan from the revolving
601 fund or the emergency fund shall pledge for repayment of the loan
602 any part of the homestead exemption annual tax loss reimbursement
603 to which it may be entitled under Section 27-33-77, as may be
604 required to meet the repayment schedule contained in the loan
605 agreement. An incorporated municipality that receives a loan from
606 the revolving fund or the emergency fund shall pledge for
607 repayment of the loan any part of the sales tax revenue
608 distribution to which it may be entitled under Section 27-65-75,
609 as may be required to meet the repayment schedule contained in the
610 loan agreement. All recipients of such loans shall establish a
611 dedicated source of revenue for repayment of the loan. Before any
612 county or incorporated municipality shall receive any loan, it
613 shall have executed with the State Tax Commission and the board a
614 loan agreement evidencing that loan. The loan agreement shall not
615 be construed to prohibit any recipient from prepaying any part or
616 all of the funds received. The repayment schedule in each loan
617 agreement shall provide for (i) monthly payments, (ii) semiannual



618 payments or (iii) other periodic payments, the annual total of
619 which shall not exceed the annual total for any other year of the
620 loan by more than fifteen percent (15%). Except as otherwise
621 provided in subsection (4) of this section, the loan agreement
622 shall provide for the repayment of all funds received from the
623 revolving fund within not more than fifteen (15) years or a term
624 as otherwise allowed by the federal Safe Drinking Water Act, and
625 all funds received from the emergency fund within not more than
626 five (5) years from the date of project completion, and any
627 repayment shall commence not later than one (1) year after project
628 completion. The State Tax Commission shall withhold semiannually
629 from counties and monthly from incorporated municipalities from
630 the amount to be remitted to the county or municipality, a sum
631 equal to the next repayment as provided in the loan agreement.

632 (e) Any county, incorporated municipality, district or
633 other water organization desiring to construct a project approved
634 by the board which receives a loan from the state for that purpose
635 but which is not eligible to pledge for repayment under the
636 provisions of paragraph (d) of this subsection, shall repay that
637 loan by making payments each month to the State Treasurer through
638 the Department of Finance and Administration for and on behalf of
639 the board according to Section 7-7-15, to be credited to either
640 the revolving fund or the emergency fund, whichever is
641 appropriate, in lieu of pledging homestead exemption annual tax
642 loss reimbursement or sales tax revenue distribution.

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

646 (f) Any district created pursuant to Sections 19-5-151
647 through 19-5-207 that receives a loan from the revolving fund or
648 the emergency fund shall pledge for repayment of the loan any part
649 of the revenues received by that district pursuant to Sections



650 19-5-151 through 19-5-207, as may be required to meet the
651 repayment schedule contained in the loan agreement.

652 (g) The State Auditor, upon request of the board, shall
653 audit the receipts and expenditures of a county, an incorporated
654 municipality, district or other water organization whose loan
655 repayments appear to be in arrears, and if the Auditor finds that
656 the county, incorporated municipality, district or other water
657 organization is in arrears in those repayments, the Auditor shall
658 immediately notify the chairman of the board who may take any
659 action as may be necessary to enforce the terms of the loan
660 agreement, including liquidation and enforcement of the security
661 given for repayment of the loan, and the Executive Director of the
662 Department of Finance and Administration who shall withhold all
663 future payments to the county of homestead exemption annual tax
664 loss reimbursements under Section 27-33-77 and all sums allocated
665 to the county or the incorporated municipality under Section
666 27-65-75 until such time as the county or the incorporated
667 municipality is again current in its loan repayments as certified
668 by the board.

669 (h) All monies deposited in the revolving fund or the
670 emergency fund, including loan repayments and interest earned on
671 those repayments, shall be used only for providing loans or other
672 financial assistance to water systems as the board deems
673 appropriate. In addition, any amounts in the revolving fund or
674 the emergency fund may be used to defray the reasonable costs of
675 administering the revolving fund or the emergency fund and
676 conducting activities under this section and Sections 6 through 20
677 of Chapter 521, Laws of 1995, subject to any limitations
678 established in the federal Safe Drinking Water Act, as amended and
679 subject to annual appropriation by the Legislature. The
680 department is authorized, upon approval by the board, to use
681 amounts available to it from the revolving fund or the emergency
682 fund to contract for those facilities and staff needed to



683 administer and provide routine management for the funds and loan
684 program.

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

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

692 (b) To promulgate rules and regulations, to make
693 variances and exceptions thereto, and to establish procedures in
694 accordance with this section and Sections 6 through 20 of Chapter
695 521, Laws of 1995, for the implementation of the local governments
696 and rural water systems improvements revolving loan program;

697 (c) To require, at the board's discretion, any loan or
698 grant recipient to impose a per connection fee or surcharge or
699 amended water rate schedule or tariff on each customer or any
700 class of customers, benefiting from an improvement financed by a
701 loan or grant made under this section, for repayment of any loan
702 funds provided under this section and Sections 6 through 20 of
703 Chapter 521, Laws of 1995. The board may require any loan or
704 grant recipient to undergo a water system viability analysis and
705 may require a loan or grant recipient to implement any result of
706 the viability analysis. If the loan recipient fails to implement
707 any result of a viability analysis as required by the board, the
708 board may impose a monetary penalty or increase the interest rate
709 on the loan, or both. If the grant recipient fails to implement
710 any result of a viability analysis as required by the board, the
711 board may impose a monetary penalty on the grant;

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



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

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

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

734 (h) To establish policies, procedures and requirements
735 concerning viability and financial capability to repay loans that
736 may be used in approving loans available under this section,
737 including a requirement that all loan recipients have a rate
738 structure which will be sufficient to cover the costs of
739 operation, maintenance, major equipment replacement and repayment
740 of any loans made under this section; and

741 (i) To file annually with the Legislature a report
742 detailing how monies in the Local Governments and Rural Water
743 Systems Improvements Revolving Loan Fund and the Local Governments
744 and Rural Water Systems Emergency Loan Fund were spent during the
745 preceding fiscal year in each county, incorporated municipality,
746 district or other water organization, the number of projects
747 approved and constructed, and the cost of each project.



748 For efficient and effective administration of the loan
749 program, revolving fund and emergency fund, the board may
750 authorize the department or the State Health Officer to carry out
751 any or all of the powers and duties enumerated above.

752 (4) The board may, on a case-by-case basis and to the extent
753 allowed by federal law, renegotiate the payment of principal and
754 interest on loans made under this section to the six (6) most
755 southern counties of the state covered by the Presidential
756 Declaration of Major Disaster for the State of Mississippi
757 (FEMA-1604-DR) dated August 29, 2005, and to incorporated
758 municipalities, districts or other water organizations located in
759 such counties; however, the interest on the loans shall not be
760 forgiven for a period of more than twenty-four (24) months and the
761 maturity of the loans shall not be extended for a period of more
762 than forty-eight (48) months.

763 **SECTION 8.** Section 41-3-17, Mississippi Code of 1972, is
764 reenacted as follows:

765 41-3-17. The State Board of Health is authorized to make and
766 publish all reasonable rules and regulations necessary to enable
767 it to discharge its duties and powers and to carry out the
768 purposes and objectives of its creation. It is further authorized
769 to make reasonable sanitary rules and regulations, to be enforced
770 in the several counties by the county health officer under the
771 supervision and control of the State Board of Health. The State
772 Board of Health shall not make or enforce any rule or regulation
773 that prohibits consumers from providing their own containers for
774 the purpose of purchasing or accepting water from any vending
775 machine or device which filters or treats water that has already
776 been tested and determined to meet or exceed the minimum health
777 protection standards prescribed for drinking water under the
778 Mississippi Safe Drinking Water Law, if that vending machine or
779 device meets or exceeds United States Environmental Protection
780 Agency or national automatic merchandising standards.



781 **SECTION 9.** Section 41-3-18, Mississippi Code of 1972, is
782 reenacted as follows:

783 41-3-18. (1) The board shall assess fees in the following
784 amounts and for the following purposes:

785 (a) Food establishment annual permit fee, based on the
786 assessment factors of the establishment as follows:

787	Assessment Category 1.....	\$ 30.00
788	Assessment Category 2.....	100.00
789	Assessment Category 3.....	150.00
790	Assessment Category 4.....	200.00

791 (b) Private water supply approval fee.....\$ 10.00

792 The board may develop such reasonable standards, rules and
793 regulations to clearly define each assessment category.

794 Assessment categories shall be based upon the factors to the
795 public health implications of the category and type of food
796 preparation being utilized by the food establishment, utilizing
797 the model Food Code of 1995, or as may be amended by the federal
798 Food and Drug Administration.

799 (2) The fee authorized under subsection (1) (a) of this
800 section shall not be assessed for:

801 (a) Food establishments operated by public schools,
802 public junior and community colleges, or state agencies or
803 institutions, including, without limitation, the state
804 institutions of higher learning and the State Penitentiary; and

805 (b) Persons who make infrequent casual sales of honey
806 and who pack or sell less than five hundred (500) gallons of honey
807 per year, and those persons shall not be inspected by the State
808 Department of Health unless requested by the producer.

809 (3) The fee authorized under subsection (1) (b) of this
810 section shall not be assessed for private water supplies used by
811 foster homes licensed by the Department of Human Services.

812 **SECTION 10.** Section 41-3-19, Mississippi Code of 1972, is
813 reenacted as follows:



814 41-3-19. It is the duty of the State Board of Health to make
815 a report, in writing, to the Governor, on or before the first day
816 of December next preceding each session, not an extraordinary
817 session of the Legislature, upon the sanitary condition, prospect,
818 and needs of the state, setting forth the action of said board, of
819 its officers and agents, the names thereof, and all its
820 expenditures since the last preceding report, and such other
821 matters as it may deem proper for the promotion of health or the
822 prevention of disease. The report shall be laid before the
823 Legislature by the Governor at its ensuing term.

824 **SECTION 11.** Section 41-3-20, Mississippi Code of 1972, is
825 amended as follows:

826 41-3-20. * * *

827 * * * Sections 41-3-1.1, 41-3-3, 41-3-4, 41-3-5.1, 41-3-6,
828 41-3-15, 41-3-16, 41-3-17, 41-3-18 and 41-3-19, which create the
829 reconstituted State Board of Health, establish the position of
830 Executive Officer of the State Department of Health and establish
831 the State Department of Health and prescribe its powers and
832 duties, shall stand repealed on June 30, 2013.

833 **SECTION 12.** This act shall take effect and be in force from
834 and after July 1, 2010.

