

By: Representatives Boyd (37th), McLean,
Stamps, Reynolds

To: Conservation and Water
Resources

HOUSE BILL NO. 1108

1 AN ACT TO AMEND SECTION 41-3-16.1, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE RURAL WATER ASSOCIATIONS THAT ALSO PROVIDE SEWER
3 SERVICES TO PARTICIPATE IN THE ARPA RURAL WATER ASSOCIATIONS
4 INFRASTRUCTURE GRANT PROGRAM; TO BRING FORWARD SECTION 49-2-131,
5 MISSISSIPPI CODE OF 1972, WHICH CREATES THE MISSISSIPPI
6 MUNICIPALITY AND COUNTY WATER INFRASTRUCTURE (MCWI) GRANT PROGRAM,
7 FOR PURPOSES OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 41-3-16.1, Mississippi Code of 1972, is
10 amended as follows:

11 41-3-16.1. (1) The State Department of Health (department)
12 shall establish a grant program to be known as the ARPA Rural
13 Water Associations Infrastructure Grant Program (program) to
14 assist rural water associations, including rural water
15 associations also providing sewer services, in the construction of
16 eligible drinking water infrastructure projects as provided in the
17 Final Rule for the Coronavirus State and Local Fiscal Recovery
18 Funds as established by the federal American Rescue Plan Act
19 (ARPA).



20 (2) The program shall be funded from appropriations by the
21 Legislature to the department from the Coronavirus State Fiscal
22 Recovery Fund, and the department shall expend all such funds for
23 the purposes provided in subsection (1) of this section. It is
24 the intent of the Legislature that, in the first fiscal year after
25 April 25, 2022, twenty percent (20%) of the funds appropriated to
26 the department for the program be obligated to projects that have
27 completed plans and specifications, acquired all necessary land
28 and/or easements, and are ready to proceed to construction.

29 (3) The department shall obligate the funds by the deadline
30 set by the rules and guidelines of the United States Department of
31 the Treasury and will adhere to the Treasury's rules and
32 guidelines for reporting and monitoring projects funded through
33 ARPA.

34 (4) The department shall develop a system for use in ranking
35 the grant applications received. The ranking system shall include
36 the following factors, at a minimum: (a) the environmental impact
37 of the proposed project; (b) the proposed project's ability to
38 address noncompliance with state/federal requirements; (c) the
39 extent to which the project promotes economic development; (d) the
40 number of people served by the project (both new and existing
41 users); (e) impacts of the proposed project on disadvantaged/
42 overburdened communities; (f) the grant applicant's prior efforts
43 to secure funding to address the proposed project's objectives;
44 (g) the grant applicant's proposed contribution of other funds or



45 in-kind cost-sharing to the proposed project; (h) the grant
46 applicant's long-term plans for the financial and physical
47 operation and maintenance of the project; and (i) the grant
48 applicant's capacity to initiate construction in a timely manner
49 and complete the proposed project by the deadline specified by
50 rules and guidelines of the United States Department of the
51 Treasury for ARPA funds.

52 (5) An application for a grant under this section shall be
53 submitted at such time, be in such form, and contain such
54 information as the department prescribes.

55 (6) Upon the approval of an application for a grant under
56 this section, the department shall enter into a project grant
57 agreement with each grantee to establish the terms of the grant
58 for the project, including the amount of the grant. The maximum
59 amount of funds that may be provided to any rural water
60 association from all grants under the program is Two Million Five
61 Hundred Thousand Dollars (\$2,500,000.00).

62 (7) The department shall have all powers necessary to
63 implement and administer the program. Of the funds appropriated
64 to the department for the program, not more than five percent (5%)
65 may be used by the department to cover the department's costs of
66 administering the program.

67 (8) In carrying out its responsibilities under the program,
68 for any contract under the purview of the Public Procurement
69 Review Board (PPRB), the department shall be exempt from any



70 requirement that the PPRB approve any personal or professional
71 services contracts or pre-approve any solicitation of such
72 contracts. This subsection shall stand repealed on July 1, 2026.

73 (9) The department shall submit an annual report regarding
74 the program no later than December 31 of each year to the
75 Lieutenant Governor, the Speaker of the House, and the Chairmen of
76 the Senate and House Appropriations Committees.

77 **SECTION 2.** Section 49-2-131, Mississippi Code of 1972, is
78 brought forward as follows:

79 49-2-131. (1) This section shall be known and may be cited
80 as the "Mississippi Municipality and County Water Infrastructure
81 Grant Program Act of 2022."

82 (2) There is hereby established within the Mississippi
83 Department of Environmental Quality the Mississippi Municipality
84 and County Water Infrastructure (MCWI) Grant Program under which
85 municipalities, counties and certain public utilities not
86 regulated by the Public Service Commission may apply for
87 reimbursable grants to make necessary investments in water,
88 wastewater, and stormwater infrastructure to be funded by the
89 Legislature utilizing Coronavirus State Fiscal Recovery Funds made
90 available under the federal American Rescue Plan Act of 2021
91 (ARPA). Such grants shall be made available to municipalities and
92 counties to be matched with the Coronavirus Local Fiscal Recovery
93 Funds awarded or to be awarded to them under ARPA on a one-to-one
94 matching basis. Coronavirus Local Fiscal Recovery Funds that a



95 county transfers to a municipality or that a county or
96 municipality transfers to a public utility not regulated by the
97 Public Service Commission are eligible on a one-to-one matching
98 basis. Municipalities that received less than One Million Dollars
99 (\$1,000,000.00) in the total allocation of Coronavirus Local
100 Fiscal Recovery Funds are eligible for a two-to-one match only on
101 the Coronavirus Local Fiscal Recovery Funds awarded or to be
102 awarded to them under ARPA. The total funds provided for all
103 two-to-one matches shall not exceed Fifty Million Dollars
104 (\$50,000,000.00). The dollar amount for professional fees that
105 can be allocated as a part of a county's, municipality's or public
106 utility's matching share is not to exceed four percent (4%) of the
107 total project cost.

108 (3) For purposes of this section, unless the context
109 requires otherwise, the following terms shall have the meanings
110 ascribed herein:

111 (a) "MCWI Grant Program" means the Mississippi
112 Municipality and County Water Infrastructure Grant Program.

113 (b) "ARPA" means the federal American Rescue Plan Act
114 of 2021, Public Law 117-2, which amends Title VI of the Social
115 Security Act.

116 (c) "State Recovery Funds" means Coronavirus State
117 Fiscal Recovery Funds awarded through Section 602 of Title VI of
118 the Social Security Act amended by Section 9901 of the federal
119 American Rescue Plan Act of 2021, Public Law 117-2.



120 (d) "Local Recovery Funds" means Coronavirus Local
121 Fiscal Recovery Funds awarded through Section 603 of Title VI of
122 the Social Security Act amended by Section 9901 of the federal
123 American Rescue Plan Act of 2021, Public Law 117-2.

124 (e) "Department" means the Department of Environmental
125 Quality.

126 (f) "Professional fees" means fees for the services of
127 attorneys and engineering, surveying, and environmental studies.

128 (g) "Project" means the infrastructure improvements
129 defined in an application that (i) complies with all requirements
130 of ARPA, and (ii) is eligible for a grant award under this
131 section.

132 (4) (a) On or before July 1, 2022, the Department of
133 Environmental Quality shall promulgate rules and regulations
134 necessary to administer the MCWI Grant Program prescribed under
135 this section, including application procedures and deadlines. The
136 department is exempt from compliance with the Mississippi
137 Administrative Procedures Law in fulfilling the requirements of
138 this section.

139 (b) The Department of Health shall advise the
140 Mississippi Department of Environmental Quality regarding all such
141 rules and regulations as related to the federal Safe Drinking
142 Water Act.

143 (5) Funding under the MCWI Grant Program shall be allocated
144 to projects certified by the Mississippi Department of



145 Environmental Quality as eligible for federal funding, including,
146 but not be limited to, the following:

147 (a) Construction of publicly owned treatment works;

148 (b) Projects pursuant to the implementation of a
149 nonpoint source pollution management program established under the
150 Clean Water Act (CWA);

151 (c) Decentralized wastewater treatment systems that
152 treat municipal wastewater or domestic sewage;

153 (d) Management and treatment of stormwater or
154 subsurface drainage water;

155 (e) Water conservation, efficiency, or reuse measures;

156 (f) Development and implementation of a conservation
157 and management plan under the CWA;

158 (g) Watershed projects meeting the criteria set forth
159 in the CWA;

160 (h) Energy consumption reduction for publicly owned
161 treatment works;

162 (i) Reuse or recycling of wastewater, stormwater, or
163 subsurface drainage water;

164 (j) Facilities to improve drinking water quality;

165 (k) Transmission and distribution, including
166 improvements of water pressure or prevention of contamination in
167 infrastructure and lead service line replacements;



168 (l) New sources to replace contaminated drinking water
169 or increase drought resilience, including aquifer storage and
170 recovery system for water storage;

171 (m) Storage of drinking water, such as to prevent
172 contaminants or equalize water demands;

173 (n) Purchase of water systems and interconnection of
174 systems;

175 (o) New community water systems;

176 (p) Culvert repair, resizing, and removal, replacement
177 of storm sewers, and additional types of stormwater
178 infrastructure;

179 (q) Dam and reservoir rehabilitation, if the primary
180 purpose of dam or reservoir is for drinking water supply and
181 project is necessary for the provision of drinking water;

182 (r) Broad set of lead remediation projects eligible
183 under EPA grant programs authorized by the Water Infrastructure
184 Improvements for the Nation (WIIN) Act; and

185 (s) Any eligible drinking water, wastewater or
186 stormwater project through ARPA guidelines, guidance, rules,
187 regulations and other criteria, as may be amended from time to
188 time, by the United States Department of the Treasury.

189 (6) The governing authority of a municipality, county or
190 public utility that is not regulated by the Public Service
191 Commission may submit an application for grant funds under this
192 section if the applicant is an operator-member of Mississippi 811,



193 Inc., as defined in Section 77-13-3. Applicants shall certify to
194 the department that each expenditure of the funds awarded to them
195 under this section is in compliance with ARPA guidelines,
196 guidance, rules, regulations and other criteria, as may be amended
197 from time to time, by the United States Department of the Treasury
198 regarding the use of monies from the State Coronavirus State
199 Fiscal Recovery Funds. Subsequent submissions will be due by the
200 dates established by the department.

201 (7) An application for a grant under this section shall be
202 submitted at such time, be in such form, and contain such
203 information as the department prescribes. Each application for
204 grant funds shall include the following at a minimum: (a)
205 applicant contact information; (b) project description and type of
206 project; (c) project map; (d) estimate of population affected by
207 the project; (e) disadvantaged community criteria (population,
208 median household income, unemployment, current water/sewer rates);
209 (f) estimated project cost; (g) list of match funds of direct
210 Coronavirus Local Fiscal Recovery Funds received and to be
211 received from the federal government, a certification that such
212 funds have been or will be used for the project detailed in the
213 application, and documentation of commitment; (h) estimated
214 project schedule and readiness to proceed; (i) engineering
215 services agreement; (j) engineering reports; and (k) information
216 about status of obtaining any required permits.



217 (8) The department must apply a system for use in ranking
218 the grant applications received. When applying the ranking
219 system, the department shall apply a greater weight to projects
220 that have approved engineering/design, plans and permits if the
221 department has deemed the project is ready to begin construction
222 within six (6) months. Projects that are included on the
223 municipal or county engineer's approved list and provide
224 applicable supporting documentation shall receive additional
225 consideration awarded to the application. The ranking system
226 shall include the following factors, at a minimum: (a) the
227 environmental impact of the proposed project; (b) the proposed
228 project's ability to address noncompliance with state/federal
229 requirements; (c) the extent to which the project promotes
230 economic development; (d) the number of people served by the
231 project and the number of communities the project serves; (e)
232 impacts of the proposed project on disadvantaged/overburdened
233 communities; (f) the grant applicant's prior efforts to secure
234 funding to address the proposed project's objectives; (g) the
235 grant applicant's proposed contribution of other funds or in-kind
236 cost-sharing to the proposed project; (h) the grant applicant's
237 long-term plans for the financial and physical operation and
238 maintenance of the project; (i) the grant applicant's capacity to
239 initiate construction in a timely manner and complete the proposed
240 project by the deadline specified by the United States Department
241 of Treasury rules for ARPA funds; (j) the extent to which the



242 project benefits multiple political subdivisions in a regional
243 manner; (k) the project's ability to enhance public service
244 infrastructure, including transportation and emergency access; and
245 (l) any other factors as determined by the department.

246 (9) The grant program shall include a specific emphasis on
247 addressing the needs of an economically disadvantaged community,
248 including providing safe, reliable drinking water in areas that
249 lack infrastructure, providing sewage treatment capacity in
250 unsewered areas and providing regional development of
251 infrastructure to serve multiple communities.

252 (10) Applications shall be reviewed and scored as they are
253 received. The Mississippi Department of Environmental Quality
254 shall certify whether each project submitted is a "necessary
255 investment" in water, wastewater, or stormwater infrastructure as
256 defined in the American Rescue Plan Act and all applicable
257 guidance issued by the United States Department of the Treasury.
258 The Department of Environmental Quality shall review the lists of
259 recommended water infrastructure projects and issue its list of
260 recommended projects to the Mississippi Department of Health for
261 its advice. Grant agreements shall be executed between the
262 recipient and the Mississippi Department of Environmental Quality.
263 All final awards shall be determined at the discretion of the
264 executive director of the department. Any funds awarded to the
265 City of Jackson under this section shall be deposited in the
266 Capital City Water/Sewer Projects Fund of the State Treasury.



267 Funds shall be obligated to a grantee upon the execution of a
268 grant agreement between the department and the approved applicant.
269 Funds shall be made available to a grantee when the department
270 obtains the necessary support for reimbursement. The department
271 is authorized to conduct additional rounds of grants as needed;
272 however, in the first round no more than forty percent (40%) of
273 the total funds appropriated for each grant program may be awarded
274 by the department, and the remaining funds may be awarded in the
275 second or subsequent rounds which shall occur no later than six
276 (6) months from the previous round. To ensure equitable treatment
277 between the categories of projects, no less than twenty percent
278 (20%) awarded under this section shall be allocated to each of the
279 three (3) categories of drinking water projects, wastewater
280 projects and stormwater projects. In second or subsequent rounds,
281 any funds not requested may be allocated to any category.

282 (11) Grant funds shall be used prospectively; however, grant
283 funds may be used to reimburse expenses incurred before the
284 enactment of this program if the costs are adequately documented
285 and comply with applicable ARPA guidelines. An applicant must
286 agree to obtain all necessary state and federal permits and follow
287 all state bidding and contracting laws and fiscally sound
288 practices in the administration of the funds.

289 (12) (a) Monies must be disbursed under this section in
290 compliance with the guidelines, guidance, rules, regulations or
291 other criteria, as may be amended from time to time, of the United



292 States Department of the Treasury regarding the use of monies from
293 the Coronavirus State Fiscal Recovery Fund, established by the
294 American Rescue Plan of 2021.

295 (b) The use of funds allocated under this program shall
296 be subject to audit by the United States Department of the
297 Treasury's Office of Inspector General and the Mississippi Office
298 of the State Auditor. Each person receiving funds under these
299 programs found to be fully or partially noncompliant with the
300 requirements in this section shall return to the state all or a
301 portion of the funds received.

302 (13) The department shall submit to the Lieutenant Governor,
303 Speaker of the House, House and Senate Appropriations Chairmen,
304 and the Legislative Budget Office quarterly reports and annual
305 reports that are due by the dates established in the Compliance
306 and Reporting Guidance by the United States Department of
307 Treasury. The reports shall contain the applications received,
308 the score of the applications, the amount of grant funds awarded
309 to each applicant, the amount of grant funds expended by each
310 applicant, and status of each applicant's project.

311 (14) Grant funds shall be available under this section
312 through December 31, 2026, or on the date of the fund expenditure
313 deadline provided by the federal government, whichever occurs
314 later. Each grant recipient shall certify for any project for
315 which a grant is awarded that if the project is not completed by
316 December 31, 2026, and the United States Congress does not enact



317 an extension of the deadline on the availability of ARPA funds,
318 then the grant recipient will complete the project through other
319 funds.

320 (15) The Mississippi Department of Environmental Quality may
321 retain an amount not to exceed five percent (5%) of the total
322 funds allocated to the program to defray administrative costs.

323 (16) The department shall be exempt from provisions of the
324 Public Procurement Review Board for any requirements of personal
325 or professional service contracts or the pre-approval of the
326 solicitation for such contracts used in the execution of its
327 responsibilities under this section. This subsection shall stand
328 repealed on January 1, 2026.

329 (17) The provisions of this section shall stand repealed on
330 January 1, 2027.

331 **SECTION 3.** This act shall take effect and be in force from
332 and after July 1, 2023.

