

By: Representatives Rosebud, Anthony,
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To: Conservation and Water
Resources

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1213

1 AN ACT TO AMEND SECTION 49-2-131, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT IN AWARDING GRANTS IN SECOND AND SUBSEQUENT ROUNDS
3 UNDER MUNICIPALITY AND COUNTY WATER INFRASTRUCTURE GRANT PROGRAM,
4 THE DEPARTMENT OF ENVIRONMENTAL QUALITY SHALL GIVE PRIORITY TO
5 ELIGIBLE APPLICANTS THAT DID NOT RECEIVE FUNDING IN THEIR FIRST
6 ROUND GRANTS TO IMPLEMENT NECESSARY REPAIRS TO THEIR EXISTING
7 WATER AND/OR SEWER SYSTEMS; TO AMEND SECTION 41-3-16.1,
8 MISSISSIPPI CODE OF 1972, TO CLARIFY THAT CERTAIN ENTITIES ARE
9 ELIGIBLE TO PARTICIPATE IN THE ARPA RURAL WATER ASSOCIATIONS
10 INFRASTRUCTURE GRANT PROGRAM; AND FOR RELATED PURPOSES.

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

12 **SECTION 1.** Section 49-2-131, Mississippi Code of 1972, is
13 amended as follows:

14 49-2-131. (1) This section shall be known and may be cited
15 as the "Mississippi Municipality and County Water Infrastructure
16 Grant Program Act of 2022."

17 (2) There is * * * established within the Mississippi
18 Department of Environmental Quality the Mississippi Municipality
19 and County Water Infrastructure (MCWI) Grant Program under which
20 municipalities, counties and certain public utilities not
21 regulated by the Public Service Commission may apply for
22 reimbursable grants to make necessary investments in water,



23 wastewater, and stormwater infrastructure to be funded by the
24 Legislature utilizing Coronavirus State Fiscal Recovery Funds made
25 available under the federal American Rescue Plan Act of 2021
26 (ARPA). * * *

27 (3) For purposes of this section, unless the context
28 requires otherwise, the following terms shall have the meanings
29 ascribed herein:

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

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

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

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

43 (e) "Department" means the Department of Environmental
44 Quality.

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



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

51 (4) (a) On or before July 1, 2022, the Department of
52 Environmental Quality shall promulgate rules and regulations
53 necessary to administer the MCWI Grant Program prescribed under
54 this section, including application procedures and deadlines. The
55 department is exempt from compliance with the Mississippi
56 Administrative Procedures Law in fulfilling the requirements of
57 this section.

58 (b) The Department of Health shall advise the
59 Mississippi Department of Environmental Quality regarding all such
60 rules and regulations as related to the federal Safe Drinking
61 Water Act.

62 (5) Funding under the MCWI Grant Program shall be allocated
63 to projects certified by the Mississippi Department of
64 Environmental Quality as eligible for federal funding, including,
65 but not be limited to, the following:

66 (a) Construction of publicly owned treatment works;

67 (b) Projects pursuant to the implementation of a
68 nonpoint source pollution management program established under the
69 Clean Water Act (CWA);

70 (c) Decentralized wastewater treatment systems that
71 treat municipal wastewater or domestic sewage;



- 72 (d) Management and treatment of stormwater or
73 subsurface drainage water;
- 74 (e) Water conservation, efficiency, or reuse measures;
- 75 (f) Development and implementation of a conservation
76 and management plan under the CWA;
- 77 (g) Watershed projects meeting the criteria set forth
78 in the CWA;
- 79 (h) Energy consumption reduction for publicly owned
80 treatment works;
- 81 (i) Reuse or recycling of wastewater, stormwater, or
82 subsurface drainage water;
- 83 (j) Facilities to improve drinking water quality;
- 84 (k) Transmission and distribution, including
85 improvements of water pressure or prevention of contamination in
86 infrastructure and lead service line replacements;
- 87 (l) New sources to replace contaminated drinking water
88 or increase drought resilience, including aquifer storage and
89 recovery system for water storage;
- 90 (m) Storage of drinking water, such as to prevent
91 contaminants or equalize water demands;
- 92 (n) Purchase of water systems and interconnection of
93 systems;
- 94 (o) New community water systems;



95 (p) Culvert repair, resizing, and removal, replacement
96 of storm sewers, and additional types of stormwater
97 infrastructure;

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

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

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

108 (6) The governing authority of a municipality, county or
109 public utility that is not regulated by the Public Service
110 Commission may submit an application for grant funds under this
111 section if the applicant is an operator-member of Mississippi 811,
112 Inc., as defined in Section 77-13-3. Applicants shall certify to
113 the department that each expenditure of the funds awarded to them
114 under this section is in compliance with ARPA guidelines,
115 guidance, rules, regulations and other criteria, as may be amended
116 from time to time, by the United States Department of the Treasury
117 regarding the use of monies from the State Coronavirus State
118 Fiscal Recovery Funds. Subsequent submissions will be due by the
119 dates established by the department.



120 (7) An application for a grant under this section shall be
121 submitted at such time, be in such form, and contain such
122 information as the department prescribes. For counties that seek
123 to apply for such grant, the county engineer, on behalf of the
124 county board of supervisors, shall submit the application for the
125 grant. Each application for grant funds shall include the
126 following at a minimum: (a) applicant contact information; (b)
127 project description and type of project; (c) project map; (d)
128 estimate of population affected by the project; (e) disadvantaged
129 community criteria (population, median household income,
130 unemployment, current water/sewer rates); (f) estimated project
131 cost; * * * (* * *g) estimated project schedule and readiness to
132 proceed; (* * *h) engineering services agreement; (* * *i)
133 engineering reports; and (* * *j) information about status of
134 obtaining any required permits.

135 (8) The department must apply a system for use in ranking
136 the grant applications received. When applying the ranking
137 system, the department shall apply a greater weight to projects
138 that have approved engineering/design, plans and permits if the
139 department has deemed the project is ready to begin construction
140 within six (6) months. Projects that are included on the
141 municipal or county engineer's approved list and provide
142 applicable supporting documentation shall receive additional
143 consideration awarded to the application. The ranking system
144 shall include the following factors, at a minimum: (a) the



145 environmental impact of the proposed project; (b) the proposed
146 project's ability to address noncompliance with state/federal
147 requirements; (c) the extent to which the project promotes
148 economic development; (d) the number of people served by the
149 project and the number of communities the project serves; (e)
150 impacts of the proposed project on disadvantaged/overburdened
151 communities; (f) the grant applicant's prior efforts to secure
152 funding to address the proposed project's objectives; (g) the
153 grant applicant's proposed contribution of other funds or in-kind
154 cost-sharing to the proposed project; (h) the grant applicant's
155 long-term plans for the financial and physical operation and
156 maintenance of the project; (i) the grant applicant's capacity to
157 initiate construction in a timely manner and complete the proposed
158 project by the deadline specified by the United States Department
159 of Treasury rules for ARPA funds; (j) the extent to which the
160 project benefits multiple political subdivisions in a regional
161 manner; (k) the project's ability to enhance public service
162 infrastructure, including transportation and emergency access; and
163 (l) any other factors as determined by the department.

164 (9) The grant program shall include a specific emphasis on
165 addressing the needs of an economically disadvantaged community,
166 including providing safe, reliable drinking water in areas that
167 lack infrastructure, providing sewage treatment capacity in
168 unsewered areas and providing regional development of
169 infrastructure to serve multiple communities.



170 (10) Applications shall be reviewed and scored as they are
171 received. The Mississippi Department of Environmental Quality
172 shall certify whether each project submitted is a "necessary
173 investment" in water, wastewater, or stormwater infrastructure as
174 defined in the American Rescue Plan Act and all applicable
175 guidance issued by the United States Department of the Treasury.
176 The Department of Environmental Quality shall review the lists of
177 recommended water infrastructure projects and issue its list of
178 recommended projects to the Mississippi Department of Health for
179 its advice. Grant agreements shall be executed between the
180 recipient and the Mississippi Department of Environmental Quality.
181 All final awards shall be determined at the discretion of the
182 executive director of the department. Any funds awarded to the
183 City of Jackson under this section shall be deposited in the
184 Capital City Water/Sewer Projects Fund of the State Treasury.
185 Funds shall be obligated to a grantee upon the execution of a
186 grant agreement between the department and the approved applicant.
187 Funds shall be made available to a grantee when the department
188 obtains the necessary support for reimbursement. The department
189 is authorized to conduct additional rounds of grants as needed;
190 however, in the first round no more than forty percent (40%) of
191 the total funds appropriated for each grant program may be awarded
192 by the department, and the remaining funds may be awarded in the
193 second or subsequent rounds which shall occur no later than six
194 (6) months from the previous round. To ensure equitable treatment



195 between the categories of projects, no less than twenty percent
196 (20%) awarded under this section shall be allocated to each of the
197 three (3) categories of drinking water projects, wastewater
198 projects and stormwater projects. In second or subsequent rounds,
199 any funds not requested may be allocated to any category. In
200 awarding grants in second and subsequent rounds, the department
201 shall give priority to eligible applicants that did not receive
202 funding in their first round grants to implement necessary repairs
203 to their existing water and/or sewer systems, as documented by the
204 applicant in its application.

205 (11) Grant funds shall be used prospectively; however, grant
206 funds may be used to reimburse expenses incurred before the
207 enactment of this program if the costs are adequately documented
208 and comply with applicable ARPA guidelines. An applicant must
209 agree to obtain all necessary state and federal permits and follow
210 all state bidding and contracting laws and fiscally sound
211 practices in the administration of the funds.

212 (12) (a) Monies must be disbursed under this section in
213 compliance with the guidelines, guidance, rules, regulations or
214 other criteria, as may be amended from time to time, of the United
215 States Department of the Treasury regarding the use of monies from
216 the Coronavirus State Fiscal Recovery Fund, established by the
217 American Rescue Plan of 2021.

218 (b) The use of funds allocated under this program shall
219 be subject to audit by the United States Department of the



220 Treasury's Office of Inspector General and the Mississippi Office
221 of the State Auditor. Each person receiving funds under these
222 programs found to be fully or partially noncompliant with the
223 requirements in this section shall return to the state all or a
224 portion of the funds received.

225 (13) The department shall submit to the Lieutenant Governor,
226 Speaker of the House, House and Senate Appropriations Chairmen,
227 and the Legislative Budget Office quarterly reports and annual
228 reports that are due by the dates established in the Compliance
229 and Reporting Guidance by the United States Department of
230 Treasury. The reports shall contain the applications received,
231 the score of the applications, the amount of grant funds awarded
232 to each applicant, the amount of grant funds expended by each
233 applicant, and status of each applicant's project.

234 (14) Grant funds shall be available under this section
235 through December 31, 2026, or on the date of the fund expenditure
236 deadline provided by the federal government, whichever occurs
237 later. Each grant recipient shall certify for any project for
238 which a grant is awarded that if the project is not completed by
239 December 31, 2026, and the United States Congress does not enact
240 an extension of the deadline on the availability of ARPA funds,
241 then the grant recipient will complete the project through other
242 funds.



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

246 (16) The department shall be exempt from provisions of the
247 Public Procurement Review Board for any requirements of personal
248 or professional service contracts or the pre-approval of the
249 solicitation for such contracts used in the execution of its
250 responsibilities under this section. This subsection shall stand
251 repealed on January 1, 2026.

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

254 **SECTION 2.** Section 41-3-16.1, Mississippi Code of 1972, is
255 amended as follows:

256 41-3-16.1. (1) The State Department of Health (department)
257 shall establish a grant program to be known as the ARPA Rural
258 Water Associations Infrastructure Grant Program (program) to
259 assist rural water associations and any entity operating as a
260 rural water association, regardless of whether the entity was user
261 created or organized not for profit or has been granted tax exempt
262 status under state or federal law or is known as a district, in
263 the construction of eligible drinking water infrastructure
264 projects as provided in the Final Rule for the Coronavirus State
265 and Local Fiscal Recovery Funds as established by the federal
266 American Rescue Plan Act (ARPA).



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

276 (3) The department shall obligate the funds by the deadline
277 set by the rules and guidelines of the United States Department of
278 the Treasury and will adhere to the Treasury's rules and
279 guidelines for reporting and monitoring projects funded through
280 ARPA.

281 (4) The department shall develop a system for use in ranking
282 the grant applications received. The ranking system shall include
283 the following factors, at a minimum: (a) the environmental impact
284 of the proposed project; (b) the proposed project's ability to
285 address noncompliance with state/federal requirements; (c) the
286 extent to which the project promotes economic development; (d) the
287 number of people served by the project (both new and existing
288 users); (e) impacts of the proposed project on disadvantaged/
289 overburdened communities; (f) the grant applicant's prior efforts
290 to secure funding to address the proposed project's objectives;
291 (g) the grant applicant's proposed contribution of other funds or



292 in-kind cost-sharing to the proposed project; (h) the grant
293 applicant's long-term plans for the financial and physical
294 operation and maintenance of the project; and (i) the grant
295 applicant's capacity to initiate construction in a timely manner
296 and complete the proposed project by the deadline specified by
297 rules and guidelines of the United States Department of the
298 Treasury for ARPA funds.

299 (5) Except as otherwise provided in this subsection (5), an
300 application for a grant under this section shall be submitted at
301 such time, be in such form, and contain such information as the
302 department prescribes. For counties that seek to apply for such a
303 grant, the county engineer, on behalf of the county board of
304 supervisors, shall submit the application for the grant.

305 (6) Upon the approval of an application for a grant under
306 this section, the department shall enter into a project grant
307 agreement with each grantee to establish the terms of the grant
308 for the project, including the amount of the grant. The maximum
309 amount of funds that may be provided to any rural water
310 association or other eligible entity from all grants under the
311 program is Two Million Five Hundred Thousand Dollars
312 (\$2,500,000.00).

313 (7) The department shall have all powers necessary to
314 implement and administer the program. Of the funds appropriated
315 to the department for the program, not more than five percent (5%)



316 may be used by the department to cover the department's costs of
317 administering the program.

318 (8) In carrying out its responsibilities under the program,
319 for any contract under the purview of the Public Procurement
320 Review Board (PPRB), the department shall be exempt from any
321 requirement that the PPRB approve any personal or professional
322 services contracts or pre-approve any solicitation of such
323 contracts. This subsection shall stand repealed on July 1, 2026.

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

328 **SECTION 3.** This act shall take effect and be in force from
329 and after its passage.

