

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

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 SUFFICIENT FUNDING IN
6 THEIR FIRST ROUND GRANTS TO IMPLEMENT NECESSARY REPAIRS TO THEIR
7 EXISTING WATER AND/OR SEWER SYSTEMS; AND FOR RELATED PURPOSES.

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

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

11 49-2-131. (1) This section shall be known and may be cited
12 as the "Mississippi Municipality and County Water Infrastructure
13 Grant Program Act of 2022."

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



21 Legislature utilizing Coronavirus State Fiscal Recovery Funds made
22 available under the federal American Rescue Plan Act of 2021
23 (ARPA). Such grants shall be made available to municipalities and
24 counties to be matched with the Coronavirus Local Fiscal Recovery
25 Funds awarded or to be awarded to them under ARPA on a one-to-one
26 matching basis. Coronavirus Local Fiscal Recovery Funds that a
27 county transfers to a municipality or that a county or
28 municipality transfers to a public utility not regulated by the
29 Public Service Commission are eligible on a one-to-one matching
30 basis. Municipalities that received less than One Million Dollars
31 (\$1,000,000.00) in the total allocation of Coronavirus Local
32 Fiscal Recovery Funds are eligible for a two-to-one match only on
33 the Coronavirus Local Fiscal Recovery Funds awarded or to be
34 awarded to them under ARPA. The total funds provided for all
35 two-to-one matches shall not exceed Fifty Million Dollars
36 (\$50,000,000.00). The dollar amount for professional fees that
37 can be allocated as a part of a county's, municipality's or public
38 utility's matching share is not to exceed four percent (4%) of the
39 total project cost.

40 (3) For purposes of this section, unless the context
41 requires otherwise, the following terms shall have the meanings
42 ascribed herein:

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



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

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

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

56 (e) "Department" means the Department of Environmental
57 Quality.

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

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

64 (4) (a) On or before July 1, 2022, the Department of
65 Environmental Quality shall promulgate rules and regulations
66 necessary to administer the MCWI Grant Program prescribed under
67 this section, including application procedures and deadlines. The
68 department is exempt from compliance with the Mississippi



69 Administrative Procedures Law in fulfilling the requirements of
70 this section.

71 (b) The Department of Health shall advise the
72 Mississippi Department of Environmental Quality regarding all such
73 rules and regulations as related to the federal Safe Drinking
74 Water Act.

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

79 (a) Construction of publicly owned treatment works;

80 (b) Projects pursuant to the implementation of a
81 nonpoint source pollution management program established under the
82 Clean Water Act (CWA);

83 (c) Decentralized wastewater treatment systems that
84 treat municipal wastewater or domestic sewage;

85 (d) Management and treatment of stormwater or
86 subsurface drainage water;

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

88 (f) Development and implementation of a conservation
89 and management plan under the CWA;

90 (g) Watershed projects meeting the criteria set forth
91 in the CWA;

92 (h) Energy consumption reduction for publicly owned
93 treatment works;



- 94 (i) Reuse or recycling of wastewater, stormwater, or
95 subsurface drainage water;
- 96 (j) Facilities to improve drinking water quality;
- 97 (k) Transmission and distribution, including
98 improvements of water pressure or prevention of contamination in
99 infrastructure and lead service line replacements;
- 100 (l) New sources to replace contaminated drinking water
101 or increase drought resilience, including aquifer storage and
102 recovery system for water storage;
- 103 (m) Storage of drinking water, such as to prevent
104 contaminants or equalize water demands;
- 105 (n) Purchase of water systems and interconnection of
106 systems;
- 107 (o) New community water systems;
- 108 (p) Culvert repair, resizing, and removal, replacement
109 of storm sewers, and additional types of stormwater
110 infrastructure;
- 111 (q) Dam and reservoir rehabilitation, if the primary
112 purpose of dam or reservoir is for drinking water supply and
113 project is necessary for the provision of drinking water;
- 114 (r) Broad set of lead remediation projects eligible
115 under EPA grant programs authorized by the Water Infrastructure
116 Improvements for the Nation (WIIN) Act; and
- 117 (s) Any eligible drinking water, wastewater or
118 stormwater project through ARPA guidelines, guidance, rules,



119 regulations and other criteria, as may be amended from time to
120 time, by the United States Department of the Treasury.

121 (6) The governing authority of a municipality, county or
122 public utility that is not regulated by the Public Service
123 Commission may submit an application for grant funds under this
124 section if the applicant is an operator-member of Mississippi 811,
125 Inc., as defined in Section 77-13-3. Applicants shall certify to
126 the department that each expenditure of the funds awarded to them
127 under this section is in compliance with ARPA guidelines,
128 guidance, rules, regulations and other criteria, as may be amended
129 from time to time, by the United States Department of the Treasury
130 regarding the use of monies from the State Coronavirus State
131 Fiscal Recovery Funds. Subsequent submissions will be due by the
132 dates established by the department.

133 (7) An application for a grant under this section shall be
134 submitted at such time, be in such form, and contain such
135 information as the department prescribes. Each application for
136 grant funds shall include the following at a minimum: (a)
137 applicant contact information; (b) project description and type of
138 project; (c) project map; (d) estimate of population affected by
139 the project; (e) disadvantaged community criteria (population,
140 median household income, unemployment, current water/sewer rates);
141 (f) estimated project cost; (g) list of match funds of direct
142 Coronavirus Local Fiscal Recovery Funds received and to be
143 received from the federal government, a certification that such



144 funds have been or will be used for the project detailed in the
145 application, and documentation of commitment; (h) estimated
146 project schedule and readiness to proceed; (i) engineering
147 services agreement; (j) engineering reports; and (k) information
148 about status of obtaining any required permits.

149 (8) The department must apply a system for use in ranking
150 the grant applications received. When applying the ranking
151 system, the department shall apply a greater weight to projects
152 that have approved engineering/design, plans and permits if the
153 department has deemed the project is ready to begin construction
154 within six (6) months. Projects that are included on the
155 municipal or county engineer's approved list and provide
156 applicable supporting documentation shall receive additional
157 consideration awarded to the application. The ranking system
158 shall include the following factors, at a minimum: (a) the
159 environmental impact of the proposed project; (b) the proposed
160 project's ability to address noncompliance with state/federal
161 requirements; (c) the extent to which the project promotes
162 economic development; (d) the number of people served by the
163 project and the number of communities the project serves; (e)
164 impacts of the proposed project on disadvantaged/overburdened
165 communities; (f) the grant applicant's prior efforts to secure
166 funding to address the proposed project's objectives; (g) the
167 grant applicant's proposed contribution of other funds or in-kind
168 cost-sharing to the proposed project; (h) the grant applicant's



169 long-term plans for the financial and physical operation and
170 maintenance of the project; (i) the grant applicant's capacity to
171 initiate construction in a timely manner and complete the proposed
172 project by the deadline specified by the United States Department
173 of Treasury rules for ARPA funds; (j) the extent to which the
174 project benefits multiple political subdivisions in a regional
175 manner; (k) the project's ability to enhance public service
176 infrastructure, including transportation and emergency access; and
177 (l) any other factors as determined by the department.

178 (9) The grant program shall include a specific emphasis on
179 addressing the needs of an economically disadvantaged community,
180 including providing safe, reliable drinking water in areas that
181 lack infrastructure, providing sewage treatment capacity in
182 unsewered areas and providing regional development of
183 infrastructure to serve multiple communities.

184 (10) Applications shall be reviewed and scored as they are
185 received. The Mississippi Department of Environmental Quality
186 shall certify whether each project submitted is a "necessary
187 investment" in water, wastewater, or stormwater infrastructure as
188 defined in the American Rescue Plan Act and all applicable
189 guidance issued by the United States Department of the Treasury.
190 The Department of Environmental Quality shall review the lists of
191 recommended water infrastructure projects and issue its list of
192 recommended projects to the Mississippi Department of Health for
193 its advice. Grant agreements shall be executed between the



194 recipient and the Mississippi Department of Environmental Quality.
195 All final awards shall be determined at the discretion of the
196 executive director of the department. Any funds awarded to the
197 City of Jackson under this section shall be deposited in the
198 Capital City Water/Sewer Projects Fund of the State Treasury.
199 Funds shall be obligated to a grantee upon the execution of a
200 grant agreement between the department and the approved applicant.
201 Funds shall be made available to a grantee when the department
202 obtains the necessary support for reimbursement. The department
203 is authorized to conduct additional rounds of grants as needed;
204 however, in the first round no more than forty percent (40%) of
205 the total funds appropriated for each grant program may be awarded
206 by the department, and the remaining funds may be awarded in the
207 second or subsequent rounds which shall occur no later than six
208 (6) months from the previous round. To ensure equitable treatment
209 between the categories of projects, no less than twenty percent
210 (20%) awarded under this section shall be allocated to each of the
211 three (3) categories of drinking water projects, wastewater
212 projects and stormwater projects. In second or subsequent rounds,
213 any funds not requested may be allocated to any category. In
214 awarding grants in second and subsequent rounds, the department
215 shall give priority to eligible applicants that did not receive
216 sufficient funding in their first round grants to implement
217 necessary repairs to their existing water and/or sewer systems, as
218 documented by the applicant in its application.



219 (11) Grant funds shall be used prospectively; however, grant
220 funds may be used to reimburse expenses incurred before the
221 enactment of this program if the costs are adequately documented
222 and comply with applicable ARPA guidelines. An applicant must
223 agree to obtain all necessary state and federal permits and follow
224 all state bidding and contracting laws and fiscally sound
225 practices in the administration of the funds.

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

232 (b) The use of funds allocated under this program shall
233 be subject to audit by the United States Department of the
234 Treasury's Office of Inspector General and the Mississippi Office
235 of the State Auditor. Each person receiving funds under these
236 programs found to be fully or partially noncompliant with the
237 requirements in this section shall return to the state all or a
238 portion of the funds received.

239 (13) The department shall submit to the Lieutenant Governor,
240 Speaker of the House, House and Senate Appropriations Chairmen,
241 and the Legislative Budget Office quarterly reports and annual
242 reports that are due by the dates established in the Compliance
243 and Reporting Guidance by the United States Department of



244 Treasury. The reports shall contain the applications received,
245 the score of the applications, the amount of grant funds awarded
246 to each applicant, the amount of grant funds expended by each
247 applicant, and status of each applicant's project.

248 (14) Grant funds shall be available under this section
249 through December 31, 2026, or on the date of the fund expenditure
250 deadline provided by the federal government, whichever occurs
251 later. Each grant recipient shall certify for any project for
252 which a grant is awarded that if the project is not completed by
253 December 31, 2026, and the United States Congress does not enact
254 an extension of the deadline on the availability of ARPA funds,
255 then the grant recipient will complete the project through other
256 funds.

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

260 (16) The department shall be exempt from provisions of the
261 Public Procurement Review Board for any requirements of personal
262 or professional service contracts or the pre-approval of the
263 solicitation for such contracts used in the execution of its
264 responsibilities under this section. This subsection shall stand
265 repealed on January 1, 2026.

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



268 **SECTION 2.** This act shall take effect and be in force from
269 and after its passage.

