

By: Representative Shanks

To: Public Health and Human Services

HOUSE BILL NO. 764
(As Sent to Governor)

1 AN ACT TO AMEND REENACTED SECTION 41-3-1.1, MISSISSIPPI CODE
2 OF 1972, TO REVISE PROVISIONS RELATED TO THE MEMBERSHIP OF THE
3 STATE BOARD OF HEALTH; TO PROVIDE THAT FROM AND AFTER JUNE 1,
4 2024, THE GOVERNOR SHALL ENSURE THAT THE BOARD WILL ALWAYS HAVE
5 TWO MEMBERS FROM EACH OF THE STATE'S CONGRESSIONAL DISTRICTS; TO
6 REENACT SECTIONS 41-3-3, 41-3-4, 41-3-5.1, 41-3-6, 41-3-16,
7 41-3-17, 41-3-18 AND 41-3-19, MISSISSIPPI CODE OF 1972, WHICH
8 CREATE THE STATE BOARD OF HEALTH, ESTABLISH THE POSITION OF
9 EXECUTIVE OFFICER OF THE STATE DEPARTMENT OF HEALTH, AND ESTABLISH
10 AND PRESCRIBE THE POWERS AND DUTIES OF THE STATE DEPARTMENT OF
11 HEALTH; TO AMEND REENACTED SECTION 41-3-15, MISSISSIPPI CODE OF
12 1972, TO DELETE VARIOUS OUTDATED PROVISIONS AND TO AUTHORIZE THE
13 STATE DEPARTMENT OF HEALTH TO DEVELOP A STUDY OF THE STATUS OF
14 HEALTH CARE IN MISSISSIPPI; TO AMEND SECTION 41-3-20, MISSISSIPPI
15 CODE OF 1972, TO EXTEND THE DATE OF THE REPEALER ON THOSE
16 REENACTED STATUTES; AND FOR RELATED PURPOSES.

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

18 **SECTION 1.** Section 41-3-1.1, Mississippi Code of 1972, is
19 reenacted and amended as follows:

20 41-3-1.1. (1) The State Board of Health * * * shall consist
21 of eleven (11) members appointed by the Governor for a term of six
22 (6) years, with the advice and consent of the Senate, as follows:

23 (a) Five (5) members of the board shall be currently
24 licensed physicians of good professional standing who have had at



25 least seven (7) years' experience in the practice of medicine in
26 this state. * * *

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

31 (c) The Governor * * * shall give due regard to
32 geographic distribution, race and gender in making their
33 appointments to the board. It is the intent of the Legislature
34 that the membership of the board reflect the population of the
35 State of Mississippi. * * * The terms of three (3) of the eleven
36 (11) members of the board expired on June 30, 2023, and their
37 successors have been named and await Senate confirmation. The
38 terms of four (4) members will expire on June 30, 2025, and the
39 terms of the other four (4) members will expire on June 30, 2027.
40 For all appointments made from and after June 1, 2024, the
41 Governor shall ensure that the board will always have two (2)
42 members from each of the state's congressional districts, as they
43 exist at the time of the appointment. In submitting the
44 appointments for confirmation, the Governor shall include a
45 statement that he or she has ascertained the current domicile of
46 each of the board members, and that the appointments comply with
47 the geographical requirements of this section. No member shall be
48 required to resign from the board because he or she changed his or
49 her domicile.



50 (2) * * * Vacancies in office shall be filled by * * * the
51 Governor, subject to the advice and consent of the Senate at the
52 next regular session of the Legislature. An appointment to fill a
53 vacancy other than by expiration of a term of office shall be for
54 the balance of the unexpired term and thereafter until his or her
55 successor is duly appointed.

56 (3) The Lieutenant Governor may designate one (1) Senator
57 and the Speaker of the House of Representatives may designate one
58 (1) Representative to attend any meeting of the State Board of
59 Health. The appointing authorities may designate alternate
60 members from their respective houses to serve when the regular
61 designees are unable to attend the meetings of the board. Those
62 legislative designees shall have no jurisdiction or vote on any
63 matter within the jurisdiction of the board. For attending
64 meetings of the board, the legislators shall receive per diem and
65 expenses, which shall be paid from the contingent expense funds of
66 their respective houses in the same amounts as provided for
67 committee meetings when the Legislature is not in session;
68 however, no per diem and expenses for attending meetings of the
69 board will be paid while the Legislature is in session. No per
70 diem and expenses will be paid except for attending meetings of
71 the board without prior approval of the proper committee in their
72 respective houses.

73 (4) (a) All members of the State Board of Health shall file
74 with the Mississippi Ethics Commission, before the first day of



75 May each year, the statement of economic interest as required by
76 Sections 25-4-25 through 25-4-29.

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

81 (c) When any matter in which a member may not
82 participate comes before the board or department, that member must
83 fully recuse himself or herself from the entire matter. The
84 member shall avoid debating, discussing or taking action on the
85 subject matter during official meetings or deliberations by
86 leaving the meeting room before the matter comes before the board
87 and by returning only after the discussion, vote or other action
88 is completed. The member shall not discuss the matter with other
89 members, department staff or any other person. Any minutes or
90 other record of the meeting shall accurately reflect the recusal.
91 If a member is uncertain whether recusal is required, the member
92 shall follow the determination of the Mississippi Ethics
93 Commission. The commission may delegate that determination to its
94 executive director.

95 (d) Upon a determination by the board or by any court
96 of competent jurisdiction that a member of the board has violated
97 the provisions of this subsection (4) regarding recusal, the
98 member shall be removed from office. Any member of the board who
99 violates the provisions of this section regarding recusal also



100 shall be subject to the penalties set forth in Sections 25-4-109
101 through 25-4-117. After removal from office, the member shall not
102 be eligible for appointment to any agency, board or commission of
103 the state for a period of two (2) years. Nothing in this section
104 shall be construed to limit the restrictions codified in Section
105 25-4-105.

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

108 41-3-3. Each person appointed as a member of the State Board
109 of Health shall immediately take the oath prescribed by Section
110 268 of the Constitution and file a certificate thereof in the
111 Office of the Secretary of State. Thereupon a commission shall be
112 issued to him under the terms as specified in Section 41-3-1.

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

115 41-3-4. (1) There shall be a Chairman and Vice Chairman of
116 the State Board of Health elected by and from its membership at
117 the first meeting of the board; and the chairman shall be the
118 presiding officer of the board. The chairman shall always be a
119 physician member of the board. The board shall adopt rules and
120 regulations governing times and places for meetings, and governing
121 the manner of conducting its business. The board shall meet not
122 less frequently than once each quarter, and at such other times as
123 determined to be necessary. The term of office of any member who
124 does not attend three (3) consecutive regular meetings of the



125 board shall be automatically terminated, and the position shall be
126 considered as vacant, except in cases of the serious illness of a
127 board member or of his or her immediate family member. All
128 meetings of the board shall be called by the chairman or by a
129 majority of the members of the board, except the first meeting of
130 the initial members of the reconstituted board, which shall be
131 called by the Governor.

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

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

140 41-3-5.1. The State Department of Health shall be headed by
141 an executive officer who shall be appointed by the State Board of
142 Health. The executive officer shall be either a physician who has
143 earned a graduate degree in public health or health care
144 administration, or a physician who in the opinion of the board is
145 fitted and equipped to execute the duties incumbent upon him or
146 her by law. The executive officer shall not engage in the private
147 practice of medicine. The term of office of the executive officer
148 shall be six (6) years, and the executive officer may be removed
149 for cause by majority vote of the members of the board. The



150 executive officer shall be subject to such rules and regulations
151 as may be prescribed by the State Board of Health. The executive
152 officer shall be the State Health Officer with such authority and
153 responsibility as is prescribed by law.

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

156 41-3-6. It shall be the duty of the State Board of Health to
157 review the statutes of the State of Mississippi affecting public
158 health and submit at least thirty (30) days prior to each regular
159 session of the Legislature any proposed legislation as may be
160 necessary to enhance the effective and efficient delivery of
161 public health services and to bring existing statutes into
162 compliance with modern technology and terminology. The board
163 shall formulate a plan for consolidating and reorganizing existing
164 state agencies having responsibilities in the field of public
165 health to eliminate any needless duplication in services which may
166 be found to exist. In carrying out the provisions of this
167 section, the State Board of Health shall cooperate with and may
168 utilize the services, facilities and personnel of any department
169 or agency of the state, any private citizen task force and the
170 committees on public health of both houses of the Legislature.
171 The State Board of Health is authorized to apply for and expend
172 funds made available to it by grant from any source in order to
173 perform its responsibilities under this section.



174 **SECTION 6.** Section 41-3-15, Mississippi Code of 1972, is
175 reenacted and amended as follows:

176 41-3-15. (1) (a) There shall be a State Department of
177 Health.

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

180 (i) To formulate the policy of the State
181 Department of Health regarding public health matters within the
182 jurisdiction of the department;

183 (ii) To adopt, modify, repeal and promulgate,
184 after due notice and hearing, and enforce rules and regulations
185 implementing or effectuating the powers and duties of the
186 department under any and all statutes within the department's
187 jurisdiction, and as the board may deem necessary;

188 (iii) To apply for, receive, accept and expend any
189 federal or state funds or contributions, gifts, trusts, devises,
190 bequests, grants, endowments or funds from any other source or
191 transfers of property of any kind;

192 (iv) To enter into, and to authorize the executive
193 officer to execute contracts, grants and cooperative agreements
194 with any federal or state agency or subdivision thereof, or any
195 public or private institution located inside or outside the State
196 of Mississippi, or any person, corporation or association in
197 connection with carrying out the provisions of this chapter, if it
198 finds those actions to be in the public interest and the contracts



199 or agreements do not have a financial cost that exceeds the
200 amounts appropriated for those purposes by the Legislature;

201 (v) To appoint, upon recommendation of the
202 Executive Officer of the State Department of Health, a Director of
203 Internal Audit who shall be either a Certified Public Accountant
204 or Certified Internal Auditor, and whose employment shall be
205 continued at the discretion of the board, and who shall report
206 directly to the board, or its designee; and

207 (vi) To discharge such other duties,
208 responsibilities and powers as are necessary to implement the
209 provisions of this chapter.

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

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

214 (ii) To supervise and direct all administrative
215 and technical activities of the department, except that the
216 department's internal auditor shall be subject to the sole
217 supervision and direction of the board;

218 (iii) To organize the administrative units of the
219 department in accordance with the plan adopted by the board and,
220 with board approval, alter the organizational plan and reassign
221 responsibilities as he or she may deem necessary to carry out the
222 policies of the board;



223 (iv) To coordinate the activities of the various
224 offices of the department;

225 (v) To employ, subject to regulations of the State
226 Personnel Board, qualified professional personnel in the subject
227 matter or fields of each office, and such other technical and
228 clerical staff as may be required for the operation of the
229 department. The executive officer shall be the appointing
230 authority for the department, and shall have the power to delegate
231 the authority to appoint or dismiss employees to appropriate
232 subordinates, subject to the rules and regulations of the State
233 Personnel Board;

234 (vi) To recommend to the board such studies and
235 investigations as he or she may deem appropriate, and to carry out
236 the approved recommendations in conjunction with the various
237 offices;

238 (vii) To prepare and deliver to the Legislature
239 and the Governor on or before January 1 of each year, and at such
240 other times as may be required by the Legislature or Governor, a
241 full report of the work of the department and the offices thereof,
242 including a detailed statement of expenditures of the department
243 and any recommendations the board may have;

244 (viii) To prepare and deliver to the Chairmen of
245 the Public Health and Welfare/Human Services Committees of the
246 Senate and House on or before January 1 of each year, a plan for
247 monitoring infant mortality in Mississippi and a full report of



248 the work of the department on reducing Mississippi's infant
249 mortality and morbidity rates and improving the status of maternal
250 and infant health; and

251 (ix) To enter into contracts, grants and
252 cooperative agreements with any federal or state agency or
253 subdivision thereof, or any public or private institution located
254 inside or outside the State of Mississippi, or any person,
255 corporation or association in connection with carrying out the
256 provisions of this chapter, if he or she finds those actions to be
257 in the public interest and the contracts or agreements do not have
258 a financial cost that exceeds the amounts appropriated for those
259 purposes by the Legislature. Each contract or agreement entered
260 into by the executive officer shall be submitted to the board
261 before its next meeting.

262 (2) The State Board of Health shall have the authority to
263 establish an Office of Rural Health within the department. The
264 duties and responsibilities of this office shall include the
265 following:

266 (a) To collect and evaluate data on rural health
267 conditions and needs;

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

270 (c) To develop and implement plans and provide
271 technical assistance to enable community health systems to respond
272 to various changes in their circumstances;



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

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

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

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

282 (a) To make investigations and inquiries with respect
283 to the causes of disease and death, and to investigate the effect
284 of environment, including conditions of employment and other
285 conditions that may affect health, and to make such other
286 investigations as it may deem necessary for the preservation and
287 improvement of health.

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

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

295 (d) To obtain, collect and preserve such information
296 relative to mortality, morbidity, disease and health as may be



297 useful in the discharge of its duties or may contribute to the
298 prevention of disease or the promotion of health in this state.

299 (e) To charge and collect reasonable fees for health
300 services, including immunizations, inspections and related
301 activities, and the board shall charge fees for those services;
302 however, if it is determined that a person receiving services is
303 unable to pay the total fee, the board shall collect any amount
304 that the person is able to pay. Any increase in the fees charged
305 by the board under this paragraph shall be in accordance with the
306 provisions of Section 41-3-65.

307 (f) (i) To establish standards for, issue permits and
308 exercise control over, any cafes, restaurants, food or drink
309 stands, sandwich manufacturing establishments, and all other
310 establishments, other than churches, church-related and private
311 schools, and other nonprofit or charitable organizations, where
312 food or drink is regularly prepared, handled and served for pay;
313 and

314 (ii) To require that a permit be obtained from the
315 Department of Health before those persons begin operation. If any
316 such person fails to obtain the permit required in this
317 subparagraph (ii), the State Board of Health, after due notice and
318 opportunity for a hearing, may impose a monetary penalty not to
319 exceed One Thousand Dollars (\$1,000.00) for each violation.
320 However, the department is not authorized to impose a monetary
321 penalty against any person whose gross annual prepared food sales



322 are less than Five Thousand Dollars (\$5,000.00). Money collected
323 by the board under this subparagraph (ii) shall be deposited to
324 the credit of the State General Fund of the State Treasury.

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

328 (h) On presentation of proper authority, to enter into
329 and inspect any public place or building where the State Health
330 Officer or his representative deems it necessary and proper to
331 enter for the discovery and suppression of disease and for the
332 enforcement of any health or sanitary laws and regulations in the
333 state.

334 (i) To conduct investigations, inquiries and hearings,
335 and to issue subpoenas for the attendance of witnesses and the
336 production of books and records at any hearing when authorized and
337 required by statute to be conducted by the State Health Officer or
338 the State Board of Health.

339 (j) To promulgate rules and regulations, and to collect
340 data and information, on (i) the delivery of services through the
341 practice of telemedicine; and (ii) the use of electronic records
342 for the delivery of telemedicine services.

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

345 (5) (a) The State Board of Health shall have the authority,
346 in its discretion, to establish programs to promote the public



347 health, to be administered by the State Department of Health.
348 Specifically, those programs may include, but shall not be limited
349 to, programs in the following areas:

- 350 (i) Maternal and child health;
- 351 (ii) Family planning;
- 352 (iii) Pediatric services;
- 353 (iv) Services to crippled and disabled children;
- 354 (v) Control of communicable and noncommunicable
355 disease;
- 356 (vi) Chronic disease;
- 357 (vii) Accidental deaths and injuries;
- 358 (viii) Child care licensure;
- 359 (ix) Radiological health;
- 360 (x) Dental health;
- 361 (xi) Milk sanitation;
- 362 (xii) Occupational safety and health;
- 363 (xiii) Food, vector control and general
364 sanitation;
- 365 (xiv) Protection of drinking water;
- 366 (xv) Sanitation in food handling establishments
367 open to the public;
- 368 (xvi) Registration of births and deaths and other
369 vital events;



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

373 (xviii) Regulation of domestic and imported fish
374 for human consumption.

375 (b) * * * [Deleted]

376 (c) The State Department of Health may undertake such
377 technical programs and activities as may be required for the
378 support and operation of those programs, including maintaining
379 physical, chemical, bacteriological and radiological laboratories,
380 and may make such diagnostic tests for diseases and tests for the
381 evaluation of health hazards as may be deemed necessary for the
382 protection of the people of the state.

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

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

387 (i) To enter into capitalization grant agreements
388 with the United States Environmental Protection Agency, or any
389 successor agency thereto;

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

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



395 (iv) To establish and collect fees to defray the
396 reasonable costs of administering the revolving fund or emergency
397 fund if the State Board of Health determines that those costs will
398 exceed the limitations established in the federal Safe Drinking
399 Water Act, as amended. The administration fees may be included in
400 loan amounts to loan recipients for the purpose of facilitating
401 payment to the board; however, those fees may not exceed five
402 percent (5%) of the loan amount.

403 (7) * * * [Deleted]

404 (8) Notwithstanding any other provision to the contrary, the
405 State Department of Health shall have the following specific
406 powers: The State Department of Health is authorized to issue a
407 license to an existing home health agency for the transfer of a
408 county from that agency to another existing home health agency,
409 and to charge a fee for reviewing and making a determination on
410 the application for such transfer not to exceed one-half (1/2) of
411 the authorized fee assessed for the original application for the
412 home health agency, with the revenue to be deposited by the State
413 Department of Health into the special fund created under Section
414 41-7-188.

415 (9) * * * [Deleted]

416 (10) Notwithstanding any other provision to the contrary,
417 the State Department of Health shall have the following specific
418 powers: The State Department of Health is authorized to extend
419 and renew any certificate of need that has expired, and to charge



420 a fee for reviewing and making a determination on the application
421 for such action not to exceed one-half (1/2) of the authorized fee
422 assessed for the original application for the certificate of need,
423 with the revenue to be deposited by the State Department of Health
424 into the special fund created under Section 41-7-188.

425 (11) Notwithstanding any other provision to the contrary,
426 the State Department of Health shall have the following specific
427 powers: The State Department of Health is authorized and
428 empowered, to revoke, immediately, the license and require closure
429 of any institution for the aged or infirm, including any other
430 remedy less than closure to protect the health and safety of the
431 residents of said institution or the health and safety of the
432 general public.

433 (12) Notwithstanding any other provision to the contrary,
434 the State Department of Health shall have the following specific
435 powers: The State Department of Health is authorized and
436 empowered, to require the temporary detainment of individuals for
437 disease control purposes based upon violation of any order of the
438 State Health Officer, as provided in Section 41-23-5. For the
439 purpose of enforcing such orders of the State Health Officer,
440 persons employed by the department as investigators shall have
441 general arrest powers. All law enforcement officers are
442 authorized and directed to assist in the enforcement of such
443 orders of the State Health Officer.



444 (13) Additionally, the State Board of Health and the State
445 Health Officer each are authorized and directed to study the
446 status of health care, in its broadest sense, throughout the
447 state. The study should include challenges such as access to
448 care; the cost of care; indigent care; providing health care to
449 the incarcerated; the availability of health care workers,
450 paraprofessionals, and professionals; the effects of unhealthy
451 lifestyle choices; the consequences of health care facilities
452 locating in affluent and urban areas to the detriment of less
453 affluent areas, small towns, and rural areas; and negative trends
454 which may cause ill effects if they continue. The study shall
455 also include opportunities to improve health care, such as greater
456 coordination among state agencies, local governments, and other
457 entities which provide various types of health care; methods of
458 increasing the health care workforce; and methods to increase the
459 location of health care facilities in distressed areas, rural
460 areas, and small towns. All state agencies, the Legislative
461 Budget Office and the Joint Legislative Committee on Performance
462 Evaluation and Expenditure Review (PEER) are directed to assist
463 the department in developing this study. This provision does not
464 by itself grant any additional power to the State Board of Health
465 or the State Health Officer to require any entity to operate
466 differently. It does, however, empower and direct them to obtain
467 information and make recommendations, and it does require all



468 entities to cooperate with the board and health officer as they
469 seek information.

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

472 41-3-16. (1) (a) There is established a local governments
473 and rural water systems improvements revolving loan and grant
474 program to be administered by the State Department of Health,
475 referred to in this section as "department," for the purpose of
476 assisting counties, incorporated municipalities, districts or
477 other water organizations that have been granted tax-exempt status
478 under either federal or state law, in making improvements to their
479 water systems, including construction of new water systems or
480 expansion or repair of existing water systems. Loan and grant
481 proceeds may be used by the recipient for planning, professional
482 services, acquisition of interests in land, acquisition of
483 personal property, construction, construction-related services,
484 maintenance, and any other reasonable use which the board, in its
485 discretion, may allow. For purposes of this section, "water
486 systems" has the same meaning as the term "public water system"
487 under Section 41-26-3.

488 (b) (i) There is created a board to be known as the
489 "Local Governments and Rural Water Systems Improvements Board,"
490 referred to in this section as "board," to be composed of the
491 following nine (9) members: the State Health Officer, or his
492 designee, who shall serve as chairman of the board; the Executive



493 Director of the Mississippi Development Authority, or his
494 designee; the Executive Director of the Department of
495 Environmental Quality, or his designee; the Executive Director of
496 the Department of Finance and Administration, or his designee; the
497 Executive Director of the Mississippi Association of Supervisors,
498 or his designee; the Executive Director of the Mississippi
499 Municipal League, or his designee; the Executive Director of the
500 American Council of Engineering Companies of Mississippi, or his
501 designee; the State Director of the United States Department of
502 Agriculture, Rural Development, or his designee; and a manager of
503 a rural water system.

504 The Governor shall appoint a manager of a rural water system
505 from a list of candidates provided by the Executive Director of
506 the Mississippi Rural Water Association. The Executive Director
507 of the Mississippi Rural Water Association shall provide the
508 Governor a list of candidates which shall contain a minimum of
509 three (3) candidates for each appointment.

510 (ii) Nonappointed members of the board may
511 designate another representative of their agency or association to
512 serve as an alternate.

513 (iii) The gubernatorial appointee shall serve a
514 term concurrent with the term of the Governor and until a
515 successor is appointed and qualified. No member, officer or
516 employee of the Board of Directors of the Mississippi Rural Water
517 Association shall be eligible for appointment.



518 (c) The department, if requested by the board, shall
519 furnish the board with facilities and staff as needed to
520 administer this section. The department may contract, upon
521 approval by the board, for those facilities and staff needed to
522 administer this section, including routine management, as it deems
523 necessary. The board may advertise for or solicit proposals from
524 public or private sources, or both, for administration of this
525 section or any services required for administration of this
526 section or any portion thereof. It is the intent of the
527 Legislature that the board endeavor to ensure that the costs of
528 administration of this section are as low as possible in order to
529 provide the water consumers of Mississippi safe drinking water at
530 affordable prices.

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

534 (2) (a) There is created a special fund in the State
535 Treasury to be designated as the "Local Governments and Rural
536 Water Systems Improvements Revolving Loan Fund," referred to in
537 this section as "revolving fund," which fund shall consist of
538 those monies as provided in Sections 6 and 13 of Chapter 521, Laws
539 of 1995. The revolving fund may receive appropriations, bond
540 proceeds, grants, gifts, donations or funds from any source,
541 public or private. Except as otherwise provided in this section,
542 the revolving fund shall be credited with all repayments of



543 principal and interest derived from loans made from the revolving
544 fund. Except as otherwise provided in this section, the monies in
545 the revolving fund may be expended only in amounts appropriated by
546 the Legislature, and the different amounts specifically provided
547 for the loan program and the grant program shall be so designated.
548 Except as otherwise provided in this section, monies in the fund
549 may only be expended for the grant program from the amount
550 designated for such program. The revolving fund shall be
551 maintained in perpetuity for the purposes established in this
552 section and Sections 6 through 20 of Chapter 521, Laws of 1995.
553 Unexpended amounts remaining in the revolving fund at the end of a
554 fiscal year shall not lapse into the State General Fund, and any
555 interest earned on amounts in the revolving fund shall be
556 deposited to the credit of the fund. Monies in the revolving fund
557 may not be used or expended for any purpose except as authorized
558 under this section and Sections 6 through 20 of Chapter 521, Laws
559 of 1995. Any monies in the fund may be used to match any federal
560 funds that are available for the same or related purposes for
561 which funds are used and expended under this section and Sections
562 6 through 20 of Chapter 521, Laws of 1995. Any federal funds
563 shall be used and expended only in accordance with federal laws,
564 rules and regulations governing the expenditure of those funds.
565 No person shall use any monies from the revolving fund for the
566 acquisition of real property or any interest in real property
567 unless that property is integral to the project funded under this



568 section and the purchase is made from a willing seller. No
569 county, incorporated municipality or district shall acquire any
570 real property or any interest in any real property for a project
571 funded through the revolving fund by condemnation. The board's
572 application of Sections 43-37-1 through 43-37-13 shall be no more
573 stringent or extensive in scope, coverage and effect than federal
574 property acquisition laws and regulations.

575 (b) There is created a special fund in the State
576 Treasury to be designated as the "Local Governments and Rural
577 Water Systems Emergency Loan Fund," hereinafter referred to as
578 "emergency fund," which fund shall consist of those monies as
579 provided in Sections 6 and 13 of Chapter 521, Laws of 1995. The
580 emergency fund may receive appropriations, bond proceeds, grants,
581 gifts, donations or funds from any source, public or private.
582 Except as otherwise provided in this section, the emergency fund
583 shall be credited with all repayments of principal and interest
584 derived from loans made from the emergency fund. Except as
585 otherwise provided in this section, the monies in the emergency
586 fund may be expended only in amounts appropriated by the
587 Legislature. The emergency fund shall be maintained in perpetuity
588 for the purposes established in this section and Section 6 of
589 Chapter 521, Laws of 1995. Unexpended amounts remaining in the
590 emergency fund at the end of a fiscal year shall not lapse into
591 the State General Fund. Any interest earned on amounts in the
592 emergency fund shall be deposited to the credit of the fund.



593 Monies in the emergency fund may not be used or expended for any
594 purpose except as authorized under this section and Section 6 of
595 Chapter 521, Laws of 1995.

596 (c) The board created in subsection (1) shall establish
597 loan and grant programs by which loans and grants may be made
598 available to counties, incorporated municipalities, districts or
599 other water organizations that have been granted tax-exempt status
600 under either federal or state law, to assist those counties,
601 incorporated municipalities, districts or water organizations in
602 making water systems improvements, including the construction of
603 new water systems or expansion or repair of existing water
604 systems. Any entity eligible under this section may receive
605 either a loan or a grant, or both. No grant awarded under the
606 program established in this section may be made using funds from
607 the loan program. Grants may be awarded only when the Legislature
608 specifically appropriates funds for that particular purpose. The
609 interest rate on those loans may vary from time to time and from
610 loan to loan, and will be at or below market interest rates as
611 determined by the board. The board shall act as quickly as is
612 practicable and prudent in deciding on any loan request that it
613 receives. Loans from the revolving fund or emergency fund may be
614 made to counties, incorporated municipalities, districts or other
615 water organizations that have been granted tax-exempt status under
616 either federal or state law, as set forth in a loan agreement in
617 amounts not to exceed one hundred percent (100%) of eligible



618 project costs as established by the board. The board may require
619 county, municipal, district or other water organization
620 participation or funding from other sources, or otherwise limit
621 the percentage of costs covered by loans from the revolving fund
622 or the emergency fund. The board may establish a maximum amount
623 for any loan from the revolving fund or emergency fund in order to
624 provide for broad and equitable participation in the programs.

625 (d) A county that receives a loan from the revolving
626 fund or the emergency fund shall pledge for repayment of the loan
627 any part of the homestead exemption annual tax loss reimbursement
628 to which it may be entitled under Section 27-33-77, as may be
629 required to meet the repayment schedule contained in the loan
630 agreement. An incorporated municipality that receives a loan from
631 the revolving fund or the emergency fund shall pledge for
632 repayment of the loan any part of the sales tax revenue
633 distribution to which it may be entitled under Section 27-65-75,
634 as may be required to meet the repayment schedule contained in the
635 loan agreement. All recipients of such loans shall establish a
636 dedicated source of revenue for repayment of the loan. Before any
637 county or incorporated municipality shall receive any loan, it
638 shall have executed with the Department of Revenue and the board a
639 loan agreement evidencing that loan. The loan agreement shall not
640 be construed to prohibit any recipient from prepaying any part or
641 all of the funds received. The repayment schedule in each loan
642 agreement shall provide for (i) monthly payments, (ii) semiannual



643 payments, or (iii) other periodic payments, the annual total of
644 which shall not exceed the annual total for any other year of the
645 loan by more than fifteen percent (15%). Except as otherwise
646 provided in subsection (4) of this section, the loan agreement
647 shall provide for the repayment of all funds received from the
648 revolving fund within not more than fifteen (15) years or a term
649 as otherwise allowed by the federal Safe Drinking Water Act, and
650 all funds received from the emergency fund within not more than
651 five (5) years from the date of project completion, and any
652 repayment shall commence not later than one (1) year after project
653 completion. The Department of Revenue shall withhold semiannually
654 from counties and monthly from incorporated municipalities from
655 the amount to be remitted to the county or municipality, a sum
656 equal to the next repayment as provided in the loan agreement.

657 (e) Any county, incorporated municipality, district or
658 other water organization desiring to construct a project approved
659 by the board which receives a loan from the state for that purpose
660 but which is not eligible to pledge for repayment under the
661 provisions of paragraph (d) of this subsection shall repay that
662 loan by making payments each month to the State Treasurer through
663 the Department of Finance and Administration for and on behalf of
664 the board according to Section 7-7-15, to be credited to either
665 the revolving fund or the emergency fund, whichever is
666 appropriate, in lieu of pledging homestead exemption annual tax
667 loss reimbursement or sales tax revenue distribution.



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

671 (f) Any district created pursuant to Sections 19-5-151
672 through 19-5-207 that receives a loan from the revolving fund or
673 the emergency fund shall pledge for repayment of the loan any part
674 of the revenues received by that district pursuant to Sections
675 19-5-151 through 19-5-207, as may be required to meet the
676 repayment schedule contained in the loan agreement.

677 (g) The State Auditor, upon request of the board, shall
678 audit the receipts and expenditures of a county, an incorporated
679 municipality, district or other water organization whose loan
680 repayments appear to be in arrears, and if the Auditor finds that
681 the county, incorporated municipality, district or other water
682 organization is in arrears in those repayments, the Auditor shall
683 immediately notify the chairman of the board who may take any
684 action as may be necessary to enforce the terms of the loan
685 agreement, including liquidation and enforcement of the security
686 given for repayment of the loan, and the Executive Director of the
687 Department of Finance and Administration who shall withhold all
688 future payments to the county of homestead exemption annual tax
689 loss reimbursements under Section 27-33-77 and all sums allocated
690 to the county or the incorporated municipality under Section
691 27-65-75 until such time as the county or the incorporated



692 municipality is again current in its loan repayments as certified
693 by the board.

694 (h) Except as otherwise provided in this section, all
695 monies deposited in the revolving fund or the emergency fund,
696 including loan repayments and interest earned on those repayments,
697 shall be used only for providing loans or other financial
698 assistance to water systems as the board deems appropriate. In
699 addition, any amounts in the revolving fund or the emergency fund
700 may be used to defray the reasonable costs of administering the
701 revolving fund or the emergency fund and conducting activities
702 under this section and Sections 6 through 20 of Chapter 521, Laws
703 of 1995, subject to any limitations established in the federal
704 Safe Drinking Water Act, as amended and subject to annual
705 appropriation by the Legislature. The department is authorized,
706 upon approval by the board, to use amounts available to it from
707 the revolving fund or the emergency fund to contract for those
708 facilities and staff needed to administer and provide routine
709 management for the funds and loan program. However,
710 notwithstanding any other provision of law to the contrary, all or
711 any portion of repayments of principal and interest derived from
712 the fund uses described in this section may be designated or
713 pledged for repayment of a loan as provided for in Section
714 31-25-28 in connection with a loan from the Mississippi
715 Development Bank.



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

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

723 (b) To promulgate rules and regulations, to make
724 variances and exceptions thereto, and to establish procedures in
725 accordance with this section and Sections 6 through 20 of Chapter
726 521, Laws of 1995, for the implementation of the local governments
727 and rural water systems improvements revolving loan program;

728 (c) To require, at the board's discretion, any loan or
729 grant recipient to impose a per connection fee or surcharge or
730 amended water rate schedule or tariff on each customer or any
731 class of customers, benefiting from an improvement financed by a
732 loan or grant made under this section, for repayment of any loan
733 funds provided under this section and Sections 6 through 20 of
734 Chapter 521, Laws of 1995. The board may require any loan or
735 grant recipient to undergo a water system viability analysis and
736 may require a loan or grant recipient to implement any result of
737 the viability analysis. If the loan recipient fails to implement
738 any result of a viability analysis as required by the board, the
739 board may impose a monetary penalty or increase the interest rate
740 on the loan, or both. If the grant recipient fails to implement



741 any result of a viability analysis as required by the board, the
742 board may impose a monetary penalty on the grant;

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

747 (e) To requisition monies in the Local Governments and
748 Rural Water Systems Improvements Revolving Loan Fund and the Local
749 Governments and Rural Water Systems Emergency Loan Fund and
750 distribute those monies on a project-by-project basis in
751 accordance with this section;

752 (f) To ensure that the funds made available under this
753 section and Sections 6 through 20 of Chapter 521, Laws of 1995, to
754 a county, an incorporated municipality, a district or a water
755 organization that has been granted tax-exempt status under either
756 federal or state law provide for a distribution of projects and
757 funds among the entities under a priority system established by
758 the board;

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



765 (h) To establish policies, procedures and requirements
766 concerning viability and financial capability to repay loans that
767 may be used in approving loans available under this section,
768 including a requirement that all loan recipients have a rate
769 structure which will be sufficient to cover the costs of
770 operation, maintenance, major equipment replacement and repayment
771 of any loans made under this section; and

772 (i) To file annually with the Legislature a report
773 detailing how monies in the Local Governments and Rural Water
774 Systems Improvements Revolving Loan Fund and the Local Governments
775 and Rural Water Systems Emergency Loan Fund were spent during the
776 preceding fiscal year in each county, incorporated municipality,
777 district or other water organization, the number of projects
778 approved and constructed, and the cost of each project.

779 For efficient and effective administration of the loan
780 program, revolving fund and emergency fund, the board may
781 authorize the department or the State Health Officer to carry out
782 any or all of the powers and duties enumerated above.

783 (4) The board may, on a case-by-case basis and to the extent
784 allowed by federal law, renegotiate the payment of principal and
785 interest on loans made under this section to the six (6) most
786 southern counties of the state covered by the Presidential
787 Declaration of Major Disaster for the State of Mississippi
788 (FEMA-1604-DR) dated August 29, 2005, and to incorporated
789 municipalities, districts or other water organizations located in



790 such counties; however, the interest on the loans shall not be
791 forgiven for a period of more than twenty-four (24) months and the
792 maturity of the loans shall not be extended for a period of more
793 than forty-eight (48) months.

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

796 41-3-17. The State Board of Health is authorized to make and
797 publish all reasonable rules and regulations necessary to enable
798 it to discharge its duties and powers and to carry out the
799 purposes and objectives of its creation. It is further authorized
800 to make reasonable sanitary rules and regulations, to be enforced
801 in the several counties by the county health officer under the
802 supervision and control of the State Board of Health. The State
803 Board of Health shall not make or enforce any rule or regulation
804 that prohibits consumers from providing their own containers for
805 the purpose of purchasing or accepting water from any vending
806 machine or device which filters or treats water that has already
807 been tested and determined to meet or exceed the minimum health
808 protection standards prescribed for drinking water under the
809 Mississippi Safe Drinking Water Law, if that vending machine or
810 device meets or exceeds United States Environmental Protection
811 Agency or national automatic merchandising standards.

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



814 41-3-18. (1) The board shall assess fees in the following
815 amounts and for the following purposes:

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

818	Assessment Category 1.....	\$ 30.00
819	Assessment Category 2.....	100.00
820	Assessment Category 3.....	150.00
821	Assessment Category 4.....	200.00

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

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

825 Assessment categories shall be based upon the factors to the
826 public health implications of the category and type of food
827 preparation being utilized by the food establishment, utilizing
828 the model Food Code of 1995, or as may be amended by the federal
829 Food and Drug Administration.

830 Any increase in the fees charged by the board under this
831 subsection shall be in accordance with the provisions of Section
832 41-3-65.

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

835 (a) Food establishments operated by public schools,
836 public junior and community colleges, or state agencies or
837 institutions, including, without limitation, the state
838 institutions of higher learning and the State Penitentiary; and



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

843 (3) The fee authorized under subsection (1)(b) of this
844 section shall not be assessed for private water supplies used by
845 foster homes licensed by the Department of Child Protection
846 Services.

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

849 41-3-19. It is the duty of the State Board of Health to make
850 a report, in writing, to the Governor, on or before the first day
851 of December next preceding each session, not an extraordinary
852 session of the Legislature, upon the sanitary condition, prospect,
853 and needs of the state, setting forth the action of said board, of
854 its officers and agents, the names thereof, and all its
855 expenditures since the last preceding report, and such other
856 matters as it may deem proper for the promotion of health or the
857 prevention of disease. The report shall be laid before the
858 Legislature by the Governor at its ensuing term.

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

861 41-3-20. Sections 41-3-1.1, 41-3-3, 41-3-4, 41-3-5.1,
862 41-3-6, 41-3-15, 41-3-16, 41-3-17, 41-3-18 and 41-3-19, which
863 create the State Board of Health, establish the position of



864 Executive Officer of the State Department of Health and establish
865 the State Department of Health and prescribe its powers and
866 duties, shall stand repealed on July 1, * * * 2029.

867 **SECTION 12.** This act shall take effect and be in force from
868 and after its passage.

