

By: Senator(s) Branning

To: Appropriations

SENATE BILL NO. 2845

1 AN ACT TO BRING FORWARD SECTION 49-2-131, MISSISSIPPI CODE OF  
2 1972, WHICH IS THE PROVISION OF LAW THAT PROVIDES FOR THE  
3 MISSISSIPPI MUNICIPALITY AND COUNTY WATER INFRASTRUCTURE GRANT  
4 PROGRAM ACT OF 2022, FOR PURPOSES OF POSSIBLE AMENDMENT; AND FOR  
5 RELATED PURPOSES.

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

7 **SECTION 1.** Section 49-2-131, Mississippi Code of 1972, is  
8 brought forward as follows:

9 49-2-131. (1) This section shall be known and may be cited  
10 as the "Mississippi Municipality and County Water Infrastructure  
11 Grant Program Act of 2022."

12 (2) There is hereby established within the Mississippi  
13 Department of Environmental Quality the Mississippi Municipality  
14 and County Water Infrastructure (MCWI) Grant Program under which  
15 municipalities, counties and certain public utilities not  
16 regulated by the Public Service Commission may apply until  
17 February 1, 2023, for reimbursable grants to make necessary  
18 investments in water, wastewater, and stormwater infrastructure to  
19 be funded by the Legislature utilizing Coronavirus State Fiscal



20 Recovery Funds made available under the federal American Rescue  
21 Plan Act of 2021 (ARPA). Such grants shall be made available to  
22 municipalities and counties to be matched with the Coronavirus  
23 Local Fiscal Recovery Funds awarded or to be awarded to them under  
24 ARPA on a one-to-one matching basis. Coronavirus Local Fiscal  
25 Recovery Funds that a county transfers to a municipality or that a  
26 county or municipality transfers to a public utility not regulated  
27 by the Public Service Commission are eligible on a one-to-one  
28 matching basis. Municipalities that received less than One  
29 Million Dollars (\$1,000,000.00) in the total allocation of  
30 Coronavirus Local Fiscal Recovery Funds are eligible for a  
31 two-to-one match only on the Coronavirus Local Fiscal Recovery  
32 Funds awarded or to be awarded to them under ARPA. The  
33 Mississippi Department of Environmental Quality shall only accept  
34 two (2) rounds of submissions under the Mississippi Municipality  
35 and County Water Infrastructure (MCWI) Grant Program. The second  
36 round of submissions shall be the final round. The dollar amount  
37 for professional fees that can be allocated as a part of a  
38 county's, municipality's or public utility's matching share is not  
39 to exceed four percent (4%) of the 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, unless the Legislature funds all  
151 eligible grant requests under the program. When applying the  
152 ranking system, the department shall apply a greater weight to  
153 projects that have approved engineering/design, plans and permits  
154 if the department has deemed the project is ready to begin  
155 construction within six (6) months. Projects that are included on  
156 the municipal or county engineer's approved list and provide  
157 applicable supporting documentation shall receive additional  
158 consideration awarded to the application. The ranking system  
159 shall include the following factors, at a minimum: (a) the  
160 environmental impact of the proposed project; (b) the proposed  
161 project's ability to address noncompliance with state/federal  
162 requirements; (c) the extent to which the project promotes  
163 economic development; (d) the number of people served by the  
164 project and the number of communities the project serves; (e)  
165 impacts of the proposed project on disadvantaged/overburdened  
166 communities; (f) the grant applicant's prior efforts to secure  
167 funding to address the proposed project's objectives; (g) the  
168 grant applicant's proposed contribution of other funds or in-kind



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

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

185 (10) Applications shall be reviewed and scored as they are  
186 received, unless the Legislature funds all eligible grant requests  
187 under the program. The Mississippi Department of Environmental  
188 Quality shall certify whether each project submitted is a  
189 "necessary investment" in water, wastewater, or stormwater  
190 infrastructure as defined in the American Rescue Plan Act and all  
191 applicable guidance issued by the United States Department of the  
192 Treasury. The Department of Environmental Quality shall review  
193 the lists of recommended water infrastructure projects and issue





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

216 (11) Grant funds shall be used prospectively; however, grant  
217 funds may be used to reimburse expenses incurred before the  
218 enactment of this program if the costs are adequately documented



219 and comply with applicable ARPA guidelines. An applicant must  
220 agree to obtain all necessary state and federal permits and follow  
221 all state bidding and contracting laws and fiscally sound  
222 practices in the administration of the funds.

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

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

236 (13) The department shall submit to the Lieutenant Governor,  
237 Speaker of the House, House and Senate Appropriations Chairmen,  
238 and the Legislative Budget Office quarterly reports and annual  
239 reports that are due by the dates established in the Compliance  
240 and Reporting Guidance by the United States Department of  
241 Treasury. The reports shall contain the applications received,  
242 the score of the applications, the amount of grant funds awarded  
243 to each applicant, the amount of grant funds expended by each



244 applicant, and status of each applicant's project. The score of  
245 the applications is not required if the award was provided in the  
246 final round of grants and the Legislature provided the total  
247 amount of funds for all eligible grant requests.

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.

