

By: Senator(s) Polk

To: Appropriations

SENATE BILL NO. 2543

1 AN ACT TO BRING FORWARD SECTION 49-2-131, MISSISSIPPI CODE OF
2 1972, WHICH ESTABLISHES THE MUNICIPAL AND COUNTY WATER
3 INFRASTRUCTURE GRANT PROGRAM FOR THE PURPOSES OF POSSIBLE
4 AMENDMENT; TO AMEND SECTION 4, CHAPTER 509, LAWS OF 2024, WHICH
5 PROVIDES REQUIREMENTS CONCERNING THE TRANSFER OF UNOBLIGATED
6 CORONAVIRUS STATE FISCAL RECOVERY FUNDS UPON A CERTAIN DATE, TO
7 DIRECT THE STATE FISCAL OFFICER, IN CONJUNCTION WITH THE STATE
8 TREASURER, TO TRANSFER CERTAIN DEOBLIGATED FUNDS; AND FOR RELATED
9 PURPOSES.

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

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

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

16 (2) There is hereby established within the Mississippi
17 Department of Environmental Quality the Mississippi Municipality
18 and County Water Infrastructure (MCWI) Grant Program under which
19 municipalities, counties and certain public utilities not
20 regulated by the Public Service Commission may apply until
21 February 1, 2023, for reimbursable grants to make necessary



investments in water, wastewater, and stormwater infrastructure to be funded by the Legislature utilizing Coronavirus State Fiscal Recovery Funds made available under the federal American Rescue Plan Act of 2021 (ARPA). Such grants shall be made available to municipalities and counties to be matched with the Coronavirus Local Fiscal Recovery Funds awarded or to be awarded to them under ARPA on a one-to-one matching basis. Coronavirus Local Fiscal Recovery Funds that a county transfers to a municipality or that a county or municipality transfers to a public utility not regulated by the Public Service Commission are eligible on a one-to-one matching basis. Municipalities that received less than One Million Dollars (\$1,000,000.00) in the total allocation of Coronavirus Local Fiscal Recovery Funds are eligible for a two-to-one match only on the Coronavirus Local Fiscal Recovery Funds awarded or to be awarded to them under ARPA. The Mississippi Department of Environmental Quality shall only accept two (2) rounds of submissions under the Mississippi Municipality and County Water Infrastructure (MCWI) Grant Program. The second round of submissions shall be the final round. The dollar amount for professional fees that can be allocated as a part of a county's, municipality's or public utility's matching share is not to exceed four percent (4%) of the total project cost.

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



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

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

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

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

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

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

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

(4) (a) On or before July 1, 2022, the Department of Environmental Quality shall promulgate rules and regulations necessary to administer the MCWI Grant Program prescribed under this section, including application procedures and deadlines. The



department is exempt from compliance with the Mississippi Administrative Procedures Law in fulfilling the requirements of this section.

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

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

(a) Construction of publicly owned treatment works;

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

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

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

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

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

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



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

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

(j) Facilities to improve drinking water quality;

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

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

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

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

(o) New community water systems;

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

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

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



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

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

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



Coronavirus Local Fiscal Recovery Funds received and to be received from the federal government, a certification that such funds have been or will be used for the project detailed in the application, and documentation of commitment; (h) estimated project schedule and readiness to proceed; (i) engineering services agreement; (j) engineering reports; and (k) information about status of obtaining any required permits.

(8) The department must apply a system for use in ranking the grant applications received, unless the Legislature funds all eligible grant requests under the program. When applying the ranking system, the department shall apply a greater weight to projects that have approved engineering/design, plans and permits if the department has deemed the project is ready to begin construction within six (6) months. Projects that are included on the municipal or county engineer's approved list and provide applicable supporting documentation shall receive additional consideration awarded to the application. The ranking system shall include the following factors, at a minimum: (a) the environmental impact of the proposed project; (b) the proposed project's ability to address noncompliance with state/federal requirements; (c) the extent to which the project promotes economic development; (d) the number of people served by the project and the number of communities the project serves; (e) impacts of the proposed project on disadvantaged/overburdened communities; (f) the grant applicant's prior efforts to secure



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

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

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



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



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

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

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

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



Treasury. The reports shall contain the applications received, the score of the applications, the amount of grant funds awarded to each applicant, the amount of grant funds expended by each applicant, and status of each applicant's project. The score of the applications is not required if the award was provided in the final round of grants and the Legislature provided the total amount of funds for all eligible grant requests.

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

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

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



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

SECTION 2. Section 4 of Chapter 509, Laws of 2024, is brought forward as follows:

Section 4. (1) The Legislature, based upon current United States Treasury guidance, has determined that all Coronavirus State Fiscal Recovery Funds must be obligated by December 31, 2024, and expended by December 31, 2026.

(2) (a) In order to meet the obligation deadline set forth by the United States Treasury, the State Fiscal Officer shall determine the amount of Coronavirus State Fiscal Recovery Funds appropriated to various agencies that will not be obligated as of October 1, 2024.

(b) In making the determination required by this section, the State Fiscal Officer shall use the guidance released by the United States Treasury to determine if the Coronavirus State Fiscal Recovery Funds are not obligated.

(3) If at any time during the period from passage of this act to October 1, 2024, a state agency determines that Coronavirus State Fiscal Recovery Funds will not be obligated by October 1, 2024, the state agency shall notify the State Fiscal Officer.

(4) If at any time the State Fiscal Officer determines that funds will be unobligated as of October 1, 2024, under subsection (2) or (3) of this section, the State Treasurer, in coordination with the State Fiscal Officer, shall transfer these funds to the



Coronavirus State Fiscal Recovery Fund (Fund No. 682111300) by no later than October 5, 2024. The State Fiscal Officer may retain an amount not to exceed the lesser of the estimated cost of ARPA administration or Twenty-five Million Dollars (\$25,000,000.00) in the Coronavirus State Fiscal Recovery Fund to be utilized for administrative and reporting costs. No later than October 6, 2024, the State Treasurer, in conjunction with the State Fiscal Officer, shall transfer the funds to the ARPA-MDOT Maintenance Project Fund.

(5) If at any time the State Fiscal Officer determines that funds are deobligated after October 5, 2024, the State Fiscal Officer, in conjunction with the State Treasurer, shall transfer the deobligated funds to the ARPA - MDOT Maintenance Project Fund.

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

