

By: Representative Ellington

To: Conservation and Water Resources

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 936

1 AN ACT TO AMEND SECTION 41-3-16, MISSISSIPPI CODE OF 1972, TO
2 EXPAND THE LOCAL GOVERNMENTS AND RURAL WATER SYSTEMS IMPROVEMENTS
3 REVOLVING LOAN PROGRAM TO INCLUDE THE AUTHORITY FOR THE GOVERNING
4 BOARD TO AWARD GRANTS TO A COUNTY, MUNICIPALITY, DISTRICT OR OTHER
5 WATER ORGANIZATION FOR THE PURPOSE OF IMPROVING THE ENTITY'S WATER
6 SYSTEM; TO LIMIT THE AWARD OF GRANT PROCEEDS TO THE AMOUNT
7 APPROPRIATED BY THE LEGISLATURE FOR THAT PARTICULAR PURPOSE; AND
8 FOR RELATED PURPOSES.

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

10 **SECTION 1.** Section 41-3-16, Mississippi Code of 1972, is
11 amended as follows:

12 41-3-16. (1) (a) There is established a local governments
13 and rural water systems improvements revolving loan and grant
14 program to be administered by the State Department of Health,
15 referred to in this section as "department," for the purpose of
16 assisting counties, incorporated municipalities, districts or
17 other water organizations that have been granted tax exempt status
18 under either federal or state law, in making improvements to their
19 water systems, including construction of new water systems or
20 expansion or repair of existing water systems. Loan and grant
21 proceeds may be used by the recipient for planning, professional
22 services, acquisition of interests in land, acquisition of
23 personal property, construction, construction-related services,
24 maintenance, and any other reasonable use which the board, in its
25 discretion, may allow. For purposes of this section, "water
26 systems" has the same meaning as the term "public water system"
27 under Section 41-26-3.

28 (b) (i) There is created a board to be known as the
29 "Local Governments and Rural Water Systems Improvements Board,"
30 referred to in this section as "board," to be composed of the



31 following nine (9) members: the State Health Officer, or his
32 designee, who shall serve as chairman of the board; the Executive
33 Director of the Mississippi Development Authority, or his
34 designee; the Executive Director of the Department of
35 Environmental Quality, or his designee; the Executive Director of
36 the Department of Finance and Administration, or his designee; the
37 Executive Director of the Mississippi Association of Supervisors,
38 or his designee; the Executive Director of the Mississippi
39 Municipal League, or his designee; the Executive Director of the
40 Consulting Engineers Council, or his designee; the State Director
41 of the United States Department of Agriculture, Rural Development,
42 or his designee; and a manager of a rural water system.

43 The Governor shall appoint a manager of a rural water system
44 from a list of candidates provided by the Executive Director of
45 the Mississippi Rural Water Association. The Executive Director
46 of the Mississippi Rural Water Association shall provide the
47 Governor a list of candidates which shall contain a minimum of
48 three (3) candidates for each appointment.

49 (ii) Nonappointed members of the board may
50 designate another representative of their agency or association to
51 serve as an alternate.

52 (iii) The gubernatorial appointee shall serve a
53 term concurrent with the term of the Governor and until a
54 successor is appointed and qualified. No member, officer or
55 employee of the Board of Directors of the Mississippi Rural Water
56 Association shall be eligible for appointment.

57 (c) The department, if requested by the board, shall
58 furnish the board with facilities and staff as needed to
59 administer this section. The department may contract, upon
60 approval by the board, for those facilities and staff needed to
61 administer this section, including routine management, as it deems
62 necessary. The board may advertise for or solicit proposals from
63 public or private sources, or both, for administration of this



64 section or any services required for administration of this
65 section or any portion thereof. It is the intent of the
66 Legislature that the board endeavor to ensure that the costs of
67 administration of this section are as low as possible in order to
68 provide the water consumers of Mississippi safe drinking water at
69 affordable prices.

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

73 (2) (a) There is created a special fund in the State
74 Treasury to be designated as the "Local Governments and Rural
75 Water Systems Improvements Revolving Loan Fund," referred to in
76 this section as "revolving fund," which fund shall consist of
77 those monies as provided in Sections 6 and 13 of Chapter 521, Laws
78 of 1995. The revolving fund may receive appropriations, bond
79 proceeds, grants, gifts, donations or funds from any source,
80 public or private. The revolving fund shall be credited with all
81 repayments of principal and interest derived from loans made from
82 the revolving fund. The monies in the revolving fund may be
83 expended only in amounts appropriated by the Legislature, and the
84 different amounts specifically provided for the loan program and
85 the grant program shall be so designated. Monies in the fund may
86 only be expended for the grant program from the amount designated
87 for such program. The revolving fund shall be maintained in
88 perpetuity for the purposes established in this section and
89 Sections 6 through 20 of Chapter 521, Laws of 1995. Unexpended
90 amounts remaining in the revolving fund at the end of a fiscal
91 year shall not lapse into the State General Fund, and any interest
92 earned on amounts in the revolving fund shall be deposited to the
93 credit of the fund. Monies in the revolving fund may not be used
94 or expended for any purpose except as authorized under this
95 section and Sections 6 through 20 of Chapter 521, Laws of 1995.
96 Any monies in the fund may be used to match any federal funds that



97 are available for the same or related purposes for which funds are
98 used and expended under this section and Sections 6 through 20 of
99 Chapter 521, Laws of 1995. Any federal funds shall be used and
100 expended only in accordance with federal laws, rules and
101 regulations governing the expenditure of those funds. No person
102 shall use any monies from the revolving fund for the acquisition
103 of real property or any interest in real property unless that
104 property is integral to the project funded under this section and
105 the purchase is made from a willing seller. No county,
106 incorporated municipality or district shall acquire any real
107 property or any interest in any real property for a project funded
108 through the revolving fund by condemnation. The board's
109 application of Sections 43-37-1 through 43-37-13 shall be no more
110 stringent or extensive in scope, coverage and effect than federal
111 property acquisition laws and regulations.

112 (b) There is created a special fund in the State
113 Treasury to be designated as the "Local Governments and Rural
114 Water Systems Emergency Loan Fund," hereinafter referred to as
115 "emergency fund," which fund shall consist of those monies as
116 provided in Sections 6 and 13 of Chapter 521, Laws of 1995. The
117 emergency fund may receive appropriations, bond proceeds, grants,
118 gifts, donations or funds from any source, public or private. The
119 emergency fund shall be credited with all repayments of principal
120 and interest derived from loans made from the emergency fund. The
121 monies in the emergency fund may be expended only in amounts
122 appropriated by the Legislature. The emergency fund shall be
123 maintained in perpetuity for the purposes established in this
124 section and Section 6 of Chapter 521, Laws of 1995. Unexpended
125 amounts remaining in the emergency fund at the end of a fiscal
126 year shall not lapse into the State General Fund. Any interest
127 earned on amounts in the emergency fund shall be deposited to the
128 credit of the fund. Monies in the emergency fund may not be used



129 or expended for any purpose except as authorized under this
130 section and Section 6 of Chapter 521, Laws of 1995.

131 (c) The board created in subsection (1) shall establish
132 loan and grant programs by which loans and grants may be made
133 available to counties, incorporated municipalities, districts or
134 other water organizations that have been granted tax exempt status
135 under either federal or state law, to assist those counties,
136 incorporated municipalities, districts or water organizations in
137 making water systems improvements, including the construction of
138 new water systems or expansion or repair of existing water
139 systems. Any entity eligible under this section may receive
140 either a loan or a grant, or both. No grant awarded under the
141 program established in this section may be made using funds from
142 the loan program. Grants may be awarded only when the Legislature
143 specifically appropriates funds for that particular purpose. The
144 interest rate on those loans may vary from time to time and from
145 loan to loan, and will be at or below market interest rates as
146 determined by the board. The board shall act as quickly as is
147 practicable and prudent in deciding on any loan request that it
148 receives. Loans from the revolving fund or emergency fund may be
149 made to counties, incorporated municipalities, districts or other
150 water organizations that have been granted tax exempt status under
151 either federal or state law, as set forth in a loan agreement in
152 amounts not to exceed one hundred percent (100%) of eligible
153 project costs as established by the board. The board may require
154 county, municipal, district or other water organization
155 participation or funding from other sources, or otherwise limit
156 the percentage of costs covered by loans from the revolving fund
157 or the emergency fund. The maximum amount for any loan from the
158 emergency fund shall be Five Hundred Thousand Dollars
159 (\$500,000.00), and the maximum amount for any loan from the
160 revolving fund shall be One Million Five Hundred Thousand Dollars
161 (\$1,500,000.00).



162 (d) A county that receives a loan from the revolving
163 fund or the emergency fund shall pledge for repayment of the loan
164 any part of the homestead exemption annual tax loss reimbursement
165 to which it may be entitled under Section 27-33-77, as may be
166 required to meet the repayment schedule contained in the loan
167 agreement. An incorporated municipality that receives a loan from
168 the revolving fund or the emergency fund shall pledge for
169 repayment of the loan any part of the sales tax revenue
170 distribution to which it may be entitled under Section 27-65-75,
171 as may be required to meet the repayment schedule contained in the
172 loan agreement. All recipients of such loans shall establish a
173 dedicated source of revenue for repayment of the loan. Before any
174 county or incorporated municipality shall receive any loan, it
175 shall have executed with the State Tax Commission and the board a
176 loan agreement evidencing that loan. The loan agreement shall not
177 be construed to prohibit any recipient from prepaying any part or
178 all of the funds received. The repayment schedule in each loan
179 agreement shall provide for (i) monthly payments, (ii) semiannual
180 payments or (iii) other periodic payments, the annual total of
181 which shall not exceed the annual total for any other year of the
182 loan by more than fifteen percent (15%). The loan agreement shall
183 provide for the repayment of all funds received from the revolving
184 fund within not more than fifteen (15) years or a term as
185 otherwise allowed by the federal Safe Drinking Water Act, and all
186 funds received from the emergency fund within not more than five
187 (5) years from the date of project completion, and any repayment
188 shall commence not later than one (1) year after project
189 completion. The State Tax Commission shall withhold semiannually
190 from counties and monthly from incorporated municipalities from
191 the amount to be remitted to the county or municipality, a sum
192 equal to the next repayment as provided in the loan agreement.

193 (e) Any county, incorporated municipality, district or
194 other water organization desiring to construct a project approved



195 by the board which receives a loan from the state for that purpose
196 but which is not eligible to pledge for repayment under the
197 provisions of paragraph (d) of this subsection, shall repay that
198 loan by making payments each month to the State Treasurer through
199 the Department of Finance and Administration for and on behalf of
200 the board according to Section 7-7-15, to be credited to either
201 the revolving fund or the emergency fund, whichever is
202 appropriate, in lieu of pledging homestead exemption annual tax
203 loss reimbursement or sales tax revenue distribution.

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

207 (f) Any district created pursuant to Sections 19-5-151
208 through 19-5-207 that receives a loan from the revolving fund or
209 the emergency fund shall pledge for repayment of the loan any part
210 of the revenues received by that district pursuant to Sections
211 19-5-151 through 19-5-207, as may be required to meet the
212 repayment schedule contained in the loan agreement.

213 (g) The State Auditor, upon request of the board, shall
214 audit the receipts and expenditures of a county, an incorporated
215 municipality, district or other water organization whose loan
216 repayments appear to be in arrears, and if the Auditor finds that
217 the county, incorporated municipality, district or other water
218 organization is in arrears in those repayments, the Auditor shall
219 immediately notify the chairman of the board who may take any
220 action as may be necessary to enforce the terms of the loan
221 agreement, including liquidation and enforcement of the security
222 given for repayment of the loan, and the Executive Director of the
223 Department of Finance and Administration who shall withhold all
224 future payments to the county of homestead exemption annual tax
225 loss reimbursements under Section 27-33-77 and all sums allocated
226 to the county or the incorporated municipality under Section
227 27-65-75 until such time as the county or the incorporated



228 municipality is again current in its loan repayments as certified
229 by the board.

230 (h) All monies deposited in the revolving fund or the
231 emergency fund, including loan repayments and interest earned on
232 those repayments, shall be used only for providing loans or other
233 financial assistance to water systems as the board deems
234 appropriate. In addition, any amounts in the revolving fund or
235 the emergency fund may be used to defray the reasonable costs of
236 administering the revolving fund or the emergency fund and
237 conducting activities under this section and Sections 6 through 20
238 of Chapter 521, Laws of 1995, subject to any limitations
239 established in the federal Safe Drinking Water Act, as amended and
240 subject to annual appropriation by the Legislature. The
241 department is authorized, upon approval by the board, to use
242 amounts available to it from the revolving fund or the emergency
243 fund to contract for those facilities and staff needed to
244 administer and provide routine management for the funds and loan
245 program.

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

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

253 (b) To promulgate rules and regulations, to make
254 variances and exceptions thereto, and to establish procedures in
255 accordance with this section and Sections 6 through 20 of Chapter
256 521, Laws of 1995, for the implementation of the local governments
257 and rural water systems improvements revolving loan program;

258 (c) To require, at the board's discretion, any loan or
259 grant recipient to impose a per connection fee or surcharge or
260 amended water rate schedule or tariff on each customer or any



261 class of customers, benefiting from an improvement financed by a
262 loan or grant made under this act, for repayment of any loan funds
263 provided under this section and Sections 6 through 20 of Chapter
264 521, Laws of 1995. The board may require any loan or grant
265 recipient to undergo a water system viability analysis and may
266 require a loan or grant recipient to implement any result of the
267 viability analysis. If the loan recipient fails to implement any
268 result of a viability analysis as required by the board, the board
269 may impose a monetary penalty or increase the interest rate on the
270 loan, or both. If the grant recipient fails to implement any
271 result of a viability analysis as required by the board, the board
272 may impose a monetary penalty on the grant;

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

277 (e) To requisition monies in the Local Governments and
278 Rural Water Systems Improvements Revolving Loan Fund and the Local
279 Governments and Rural Water Systems Emergency Loan Fund and
280 distribute those monies on a project-by-project basis in
281 accordance with this section;

282 (f) To ensure that the funds made available under this
283 section and Sections 6 through 20 of Chapter 521, Laws of 1995, to
284 a county, an incorporated municipality, a district or a water
285 organization that has been granted tax exempt status under either
286 federal or state law provide for a distribution of projects and
287 funds among the entities under a priority system established by
288 the board;

289 (g) To maintain in accordance with generally accepted
290 government accounting standards an accurate record of all monies
291 in the revolving fund and the emergency fund made available to
292 counties, incorporated municipalities, districts or other water



293 organizations under this section and Sections 6 through 20 of
294 Chapter 521, Laws of 1995, and the costs for each project;

295 (h) To establish policies, procedures and requirements
296 concerning viability and financial capability to repay loans that
297 may be used in approving loans available under this section,
298 including a requirement that all loan recipients have a rate
299 structure which will be sufficient to cover the costs of
300 operation, maintenance, major equipment replacement and repayment
301 of any loans made under this section; and

302 (i) To file annually with the Legislature a report
303 detailing how monies in the Local Governments and Rural Water
304 Systems Improvements Revolving Loan Fund and the Local Governments
305 and Rural Water Systems Emergency Loan Fund were spent during the
306 preceding fiscal year in each county, incorporated municipality,
307 district or other water organization, the number of projects
308 approved and constructed, and the cost of each project.

309 For efficient and effective administration of the loan
310 program, revolving fund and emergency fund, the board may
311 authorize the department or the State Health Officer to carry out
312 any or all of the powers and duties enumerated above.

313 **SECTION 2.** This act shall take effect and be in force from
314 and after July 1, 2002.

