By: Representative McCoy

To: Ways and Means

HOUSE BILL NO. 1830

AN ACT TO AUTHORIZE THE ISSUANCE OF $1,110,000.00 IN STATE GENERAL OBLIGATION BONDS TO PROVIDE MATCHING FUNDS FOR FEDERAL FUNDS FOR THE WATER POLLUTION CONTROL REVOLVING FUND; TO AMEND SECTION 49-17-85, MISSISSIPPI CODE OF 1972, TO CLARIFY THE TYPE OF FUNDS THAT MAY BE PLACED IN THE WATER POLLUTION CONTROL REVOLVING FUND; AND FOR RELATED PURPOSES.

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

SECTION 1. As used in Sections 1 through 16 of this act, the following words shall have the meanings ascribed herein unless the context clearly requires otherwise:

(a) "Accreted value" of any bonds means, as of any date of computation, an amount equal to the sum of (i) the stated initial value of such bond, plus (ii) the interest accrued thereon from the issue date to the date of computation at the rate, compounded semiannually, that is necessary to produce the approximate yield to maturity shown for bonds of the same maturity.

(b) "State" means the State of Mississippi.

(c) "Commission" means the State Bond Commission.

SECTION 2. (1) The Commission on Environmental Quality, at one time, or from time to time, may declare by resolution the necessity for issuance of general obligation bonds of the State of Mississippi to provide funds for the Water Pollution Control Revolving Fund established in Section 49-17-85. Upon the adoption of a resolution by the Commission on Environmental Quality, declaring the necessity for the issuance of any part or all of the general obligation bonds authorized by this section, the Commission on Environmental Quality shall deliver a certified copy of its resolution or resolutions to the commission. Upon receipt of such resolution, the commission, in its discretion, may act as the issuing agent, prescribe the form of the bonds, advertise for and accept bids, issue and sell the bonds so authorized to be sold and do any and all other things necessary and advisable in connection with the issuance and sale of such bonds. The total amount of bonds issued under Sections 1 through 16 of this act shall not exceed One Million One Hundred Ten Thousand Dollars ($1,110,000.00).

(2) The proceeds of bonds issued pursuant to Sections 1 through 16 of this act shall be deposited into the Water Pollution Control Revolving Fund created pursuant to Section 49-17-85.

SECTION 3. The principal of and interest on the bonds authorized under Sections 1 through 16 of this act shall be payable in the manner provided in this section. Such bonds shall bear such date or dates, be in such denomination or denominations, bear interest at such rate or rates (not to exceed the limits set forth in Section 75-17-101, Mississippi Code of 1972), be payable at such place or places within or without the State of Mississippi, shall mature absolutely at such time or times not to exceed twenty-five (25) years from date of issue, be redeemable before maturity at such time or times and upon such terms, with or without premium, shall bear such registration privileges, and shall be substantially in such form, all as shall be determined by resolution of the commission.

SECTION 4. The bonds authorized by Sections 1 through 16 of this act shall be signed by the chairman of the commission, or by his facsimile signature, and the official seal of the commission shall be affixed thereto, attested by the secretary of the commission. The interest coupons, if any, to be attached to such bonds may be executed by the facsimile signatures of such officers. Whenever any such bonds shall have been signed by the officials designated to sign the bonds who were in office at the time of such signing but who may have ceased to be such officers before the sale and delivery of such bonds, or who may not have been in office on the date such bonds may bear, the signatures of such officers upon such bonds and coupons shall nevertheless be valid and sufficient for all purposes and have the same effect as if the person so officially signing such bonds had remained in office until their delivery to the purchaser, or had been in office on the date such bonds may bear. However, notwithstanding anything herein to the contrary, such bonds may be issued as provided in the Registered Bond Act of the State of Mississippi.

SECTION 5. All bonds and interest coupons issued under the provisions of Sections 1 through 16 of this act have all the qualities and incidents of negotiable instruments under the provisions of the Uniform Commercial Code, and in exercising the powers granted by Sections 1 through 16 of this act, the commission shall not be required to and need not comply with the provisions of the Uniform Commercial Code.

SECTION 6. The commission shall act as the issuing agent for the bonds authorized under Sections 1 through 16 of this act, prescribe the form of the bonds, advertise for and accept bids, issue and sell the bonds so authorized to be sold, pay all fees and costs incurred in such issuance and sale, and do any and all other things necessary and advisable in connection with the issuance and sale of such bonds. The commission is authorized and empowered to pay the costs that are incident to the sale, issuance and delivery of the bonds authorized under Sections 1 through 16 of this act from the proceeds derived from the sale of such bonds. The commission shall sell such bonds on sealed bids at public sale, and for such price as it may determine to be for the best interest of the State of Mississippi, but no such sale shall be made at a price less than par plus accrued interest to the date of delivery of the bonds to the purchaser. All interest accruing on such bonds so issued shall be payable semiannually or annually;

however, the first interest payment may be for any period of not more than one (1) year.

Notice of the sale of any such bonds shall be published at least one time, not less than ten (10) days before the date of sale, and shall be so published in one or more newspapers published or having a general circulation in the City of Jackson, Mississippi, and in one or more other newspapers or financial journals with a national circulation, to be selected by the commission.

The commission, when issuing any bonds under the authority of Sections 1 through 16 of this act, may provide that bonds, at the option of the State of Mississippi, may be called in for payment and redemption at the call price named therein and accrued interest on such date or dates named therein.

SECTION 7. The bonds issued under the provisions of Sections 1 through 16 of this act are general obligations of the State of Mississippi, and for the payment thereof the full faith and credit of the State of Mississippi is irrevocably pledged. If the funds appropriated by the Legislature are insufficient to pay the principal of and the interest on such bonds as they become due, then the deficiency shall be paid by the State Treasurer from any funds in the State Treasury not otherwise appropriated. All such bonds shall contain recitals on their faces substantially covering the provisions of this section.

SECTION 8. Upon the issuance and sale of bonds under the provisions of Sections 1 through 16 of this act, the commission shall transfer the proceeds of any such sale or sales to the Water Pollution Control Revolving Fund created in Section 49-17-85. After the transfer of the proceeds of any such sale or sales to the Water Pollution Control Revolving Fund, any investment earnings or interest earned on the proceeds of such bonds shall be deposited to the credit of the Water Pollution Control Revolving Fund and shall be used only for the purposes provided in Section

49-17-85. The proceeds of such bonds shall be disbursed solely upon the order of the Commission on Environmental Quality under such restrictions, if any, as may be contained in the resolution providing for the issuance of the bonds.

SECTION 9. The bonds authorized under Sections 1 through 16 of this act may be issued without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions and things which are specified or required by Sections 1 through 16 of this act. Any resolution providing for the issuance of bonds under the provisions of Sections 1 through 16 of this act shall become effective immediately upon its adoption by the commission, and any such resolution may be adopted at any regular or special meeting of the commission by a majority of its members.

SECTION 10. The bonds authorized under the authority of Sections 1 through 16 of this act may be validated in the Chancery Court of the First Judicial District of Hinds County, Mississippi, in the manner and with the force and effect provided by Chapter 13, Title 31, Mississippi Code of 1972, for the validation of county, municipal, school district and other bonds. The notice to taxpayers required by such statutes shall be published in a newspaper published or having a general circulation in the City of Jackson, Mississippi.

SECTION 11. Any holder of bonds issued under the provisions of Sections 1 through 16 of this act or of any of the interest coupons pertaining thereto may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights granted under Sections 1 through 16 of this act, or under such resolution, and may enforce and compel performance of all duties required by Sections 1 through 16 of this act to be performed, in order to provide for the payment of bonds and interest thereon.

SECTION 12. All bonds issued under the provisions of Sections 1 through 16 of this act shall be legal investments for trustees and other fiduciaries, and for savings banks, trust companies and insurance companies organized under the laws of the State of Mississippi, and such bonds shall be legal securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and political subdivisions for the purpose of securing the deposit of public funds.

SECTION 13. Bonds issued under the provisions of Sections 1 through 16 of this act and income therefrom shall be exempt from all taxation in the State of Mississippi.

SECTION 14. The proceeds of the bonds issued under Sections 1 through 16 of this act shall be used solely for the purposes therein provided, including the costs incident to the issuance and sale of such bonds.

SECTION 15. The State Treasurer is authorized, without further process of law, to certify to the Department of Finance and Administration the necessity for warrants, and the Department of Finance and Administration is authorized and directed to issue such warrants, in such amounts as may be necessary to pay when due the principal of, premium, if any, and interest on, or the accreted value of, all bonds issued under Sections 1 through 16 of this act; and the State Treasurer shall forward the necessary amount to the designated place or places of payment of such bonds in ample time to discharge such bonds, or the interest thereon, on the due dates thereof.

SECTION 16. Sections 1 through 16 of this act shall be deemed to be full and complete authority for the exercise of the powers therein granted, but Sections 1 through 16 of this act shall not be deemed to repeal or to be in derogation of any existing law of this state.

SECTION 17. Section 49-17-85, Mississippi Code of 1972, is amended as follows:

49-17-85. (1) There is established in the State Treasury a fund to be known as the "Water Pollution Control Revolving Fund" which shall be administered by the commission acting through the department. <u>The revolving fund may receive bond proceeds and funds appropriated or otherwise made available by the Legislature in any manner and funds from any other source, public or private.</u> The revolving fund shall be maintained in perpetuity for the purposes established in this section.

(2) There is established in the State Treasury a fund to be known as the "Water Pollution Control Hardship Grants Fund," which shall be administered by the commission acting through the department. The grants fund shall be maintained in perpetuity for the purposes established in this section. Any interest earned on monies in the grants fund shall be credited to that fund.

(3) The commission shall promulgate regulations for the administration of the revolving fund program, the hardship grants program and for related programs authorized under this section. The regulations shall be in accordance with the federal Water Quality Act of 1987, as amended and regulations and guidance issued under that act. The commission may enter into capitalization grant agreements with the United States Environmental Protection Agency and may accept capitalization grant awards made under Title VI of the Water Quality Act of 1987, as amended.

(4) The commission shall establish a loan program which shall commence after October 1, 1988, to assist political subdivisions in the construction of water pollution control projects. Loans from the revolving fund may be made to political subdivisions as set forth in a loan agreement in amounts not exceeding one hundred percent (100%) of eligible project costs as established by the commission. Notwithstanding loan amount

limitations set forth in Section 49-17-61, the commission may require local participation or funding from other sources, or otherwise limit the percentage of costs covered by loans from the revolving fund. The commission may establish a maximum amount for any loan in order to provide for broad and equitable participation in the program.

(5) The commission shall establish a hardship grants program for rural communities, which shall commence after July 1, 1997, to assist severely economically disadvantaged small rural political subdivisions in the construction of water pollution control projects. The commission may receive and administer state or federal funds, or both, appropriated for the operation of this grants program and may take all actions necessary to implement the program in accordance with the federal hardship grants program. The hardship grants program shall operate in conjunction with the revolving loan program administered under this section.

(6) The commission shall act for the state in all matters and with respect to all determinations under Title VI of the federal Water Quality Act of 1987, as amended and the federal Omnibus Appropriations and Recision Act of 1996.

(7) The revolving fund may be used only:

(a) To make loans on the condition that:

(i) The loans are made at or below market interest rates, at terms not to exceed twenty (20) years after project completion; the interest rate and term may vary from time to time and from loan to loan at the discretion of the commission;

(ii) Periodic principal and interest payments will commence when required by the commission but not later than one (1) year after project completion and all loans will be fully amortized when required by the commission but not later than twenty (20) years after project completion;

(iii) The recipient of a loan will establish a dedicated source of revenue for repayment of loans;

(b) To buy or refinance the debt obligation of political subdivisions at or below market rates, where the debt obligations were incurred after March 7, 1985, and where the projects were constructed in compliance with applicable federal and state regulations;

(c) To guarantee, or purchase insurance for, obligations of political subdivisions where the action would improve credit market access or reduce interest rates;

(d) To provide loan guarantees for similar revolving funds established by municipalities or intermunicipal agencies;

(e) To earn interest on fund accounts;

(f) To establish nonpoint source pollution control management programs;

(g) To establish estuary conservation and management programs;

(h) For the reasonable costs of administering the revolving fund and conducting activities under this act, subject to the limitations established in Section 603(d)(7) of Title VI of the federal Clean Water Act, as amended, and subject to annual appropriation by the Legislature; and

(i) In connection with the issuance, sale and purchase of bonds under Section 31-25-1 et seq., related to the funding of projects, to provide security or a pledge of revenues for the repayment of the bonds.

(8) The hardship grants program shall be used only to provide hardship grants consistent with the federal hardship grants program for rural communities, regulations and guidance issued by the United States Environmental Protection Agency, subsections (3) and (5) of this section and regulations promulgated and guidance issued by the commission under this section.

(9) The commission shall establish by regulation a system of priorities and a priority list of projects eligible for funding with loans from the revolving fund.

(10) The commission may provide a loan from the revolving fund only with respect to a project if that project is on the priority list established by the commission.

(11) The revolving fund shall be credited with all payments of principal and interest derived from the fund uses described in subsection (7) of this section.

(12) The commission may establish and collect fees to defray the reasonable costs of administering the revolving fund if it determines that the administrative costs will exceed the limitations established in Section 603(d)(7) of Title VI of the federal Clean Water Act, as amended. The administration fees may be included in loan amounts to political subdivisions for the purpose of facilitating payment to the commission. The fees may not exceed five percent (5%) of the loan amount.

SECTION 18. This act shall take effect and be in force from and after its passage.

ST: Bonds; issue bonds to provide funds for the Water Pollution Control Revolving Fund.