

By: Representative Franks

To: Conservation and Water
Resources

HOUSE BILL NO. 1432

1 AN ACT TO BRING FORWARD SECTION 49-17-85, MISSISSIPPI CODE OF
2 1972, RELATING TO THE WATER POLLUTION CONTROL REVOLVING FUND
3 ADMINISTERED BY THE COMMISSION ON ENVIRONMENTAL QUALITY; TO BRING
4 FORWARD SECTION 49-17-86, MISSISSIPPI CODE OF 1972, RELATING TO
5 THE WATER POLLUTION CONTROL EMERGENCY LOAN FUND ADMINISTERED BY
6 THE COMMISSION; TO BRING FORWARD SECTION 49-17-525, MISSISSIPPI
7 CODE OF 1972, RELATING TO THE LEAD-BASED PAINT PROGRAM OPERATIONS
8 FUND ADMINISTERED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF
9 ENVIRONMENTAL QUALITY, FOR PURPOSES OF AMENDMENT; AND FOR RELATED
10 PURPOSES.

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

12 **SECTION 1.** Section 49-17-85, Mississippi Code of 1972, is
13 brought forward as follows:

14 49-17-85. (1) There is established in the State Treasury a
15 fund to be known as the "Water Pollution Control Revolving Fund"
16 which shall be administered by the commission acting through the
17 department. The revolving fund may receive bond proceeds and
18 funds appropriated or otherwise made available by the Legislature
19 in any manner and funds from any other source, public or private.
20 The revolving fund shall be maintained in perpetuity for the
21 purposes established in this section.

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

28 (3) The commission shall promulgate regulations for the
29 administration of the revolving fund program, the hardship grants
30 program and for related programs authorized under this section.
31 The regulations shall be in accordance with the federal Water

32 Quality Act of 1987, as amended and regulations and guidance
33 issued under that act. The commission may enter into
34 capitalization grant agreements with the United States
35 Environmental Protection Agency and may accept capitalization
36 grant awards made under Title VI of the Water Quality Act of 1987,
37 as amended.

38 (4) The commission shall establish a loan program which
39 shall commence after October 1, 1988, to assist political
40 subdivisions in the construction of water pollution control
41 projects. Loans from the revolving fund may be made to political
42 subdivisions as set forth in a loan agreement in amounts not
43 exceeding one hundred percent (100%) of eligible project costs as
44 established by the commission. Notwithstanding loan amount
45 limitations set forth in Section 49-17-61, the commission may
46 require local participation or funding from other sources, or
47 otherwise limit the percentage of costs covered by loans from the
48 revolving fund. The commission may establish a maximum amount for
49 any loan in order to provide for broad and equitable participation
50 in the program.

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

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

65 (7) The revolving fund may be used only:
66 (a) To make loans on the condition that:
67 (i) The loans are made at or below market interest
68 rates, at terms not to exceed twenty (20) years after project
69 completion; the interest rate and term may vary from time to time
70 and from loan to loan at the discretion of the commission;
71 (ii) Periodic principal and interest payments will
72 commence when required by the commission but not later than one
73 (1) year after project completion and all loans will be fully
74 amortized when required by the commission but not later than
75 twenty (20) years after project completion;
76 (iii) The recipient of a loan will establish a
77 dedicated source of revenue for repayment of loans;
78 (b) To buy or refinance the debt obligation of
79 political subdivisions at or below market rates, where the debt
80 obligations were incurred after March 7, 1985, and where the
81 projects were constructed in compliance with applicable federal
82 and state regulations;
83 (c) To guarantee, or purchase insurance for,
84 obligations of political subdivisions where the action would
85 improve credit market access or reduce interest rates;
86 (d) To provide loan guarantees for similar revolving
87 funds established by municipalities or intermunicipal agencies;
88 (e) To earn interest on fund accounts;
89 (f) To establish nonpoint source pollution control
90 management programs;
91 (g) To establish estuary conservation and management
92 programs;
93 (h) For the reasonable costs of administering the
94 revolving fund and conducting activities under this act, subject
95 to the limitations established in Section 603(d)(7) of Title VI of
96 the federal Clean Water Act, as amended, and subject to annual
97 appropriation by the Legislature; and

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

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

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

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

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

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

126 **SECTION 2.** Section 49-17-86, Mississippi Code of 1972, is
127 brought forward as follows:

128 49-17-86. (1) (a) There is created a fund in the State
129 Treasury to be designated as the "Water Pollution Control
130 Emergency Loan Fund" hereinafter referred to as "emergency fund."

131 (b) The emergency fund may receive appropriations, bond
132 proceeds, grants, gifts, donations or funds from any source,
133 public or private. The emergency fund shall be credited with all
134 repayments of principal and interest derived from loans made from
135 the emergency fund.

136 (c) The monies in the emergency fund may be expended
137 only in amounts appropriated by the Legislature.

138 (d) The emergency fund shall be maintained in
139 perpetuity for the purposes established in Sections 49-17-81
140 through 49-17-89. Unexpended amounts remaining in the emergency
141 fund at the end of a fiscal year shall not lapse into the State
142 General Fund. Any interest earned on amounts in the emergency
143 fund shall be deposited to the credit of the fund.

144 (2) The commission shall establish a loan program to assist
145 political subdivisions in making emergency improvements such as
146 repairs to or replacement of machinery, equipment, materials,
147 structures or devices in existing water pollution abatement
148 projects or such other emergency water pollution abatement
149 projects as the commission deems necessary. Loans from the
150 emergency fund may be made to political subdivisions as set forth
151 in a loan agreement in amounts not exceeding one hundred percent
152 (100%) of eligible project costs as established by the commission.
153 The commission may require local participation or funding from
154 other sources, or otherwise limit the percentage of costs covered
155 by loans from the emergency fund. The commission may establish a
156 maximum amount for any loan not to exceed Three Hundred Fifty
157 Thousand Dollars (\$350,000.00).

158 (3) The emergency fund may be used only:

159 (a) To make loans on the condition that:

160 (i) Loans are made at or below market interest
161 rates, at terms not to exceed ten (10) years after project
162 completion; the interest rate may vary from time to time and from
163 loan to loan at the discretion of the commission.

164 (ii) Periodic principal and interest payments will
165 commence when required by the commission but not later than one
166 (1) year after project completion and all loans will be fully
167 amortized when required by the commission but not later than ten
168 (10) years after project completion.

169 (iii) The recipient of a loan shall establish a
170 dedicated source of revenue for repayment of loans. In addition,
171 the commission may require any loan recipient to impose a per
172 connection surcharge on each customer for repayment of any loan
173 funds provided under this section.

174 (iv) The recipient of the loan is not in arrears
175 in repayments to the Water Pollution Control Revolving Fund, the
176 Water Pollution Control Emergency Loan Fund or under the Water
177 Pollution Abatement Loan Program.

178 (b) To provide financial assistance to political
179 subdivisions in making emergency improvements such as repairs to
180 or replacement of machinery, equipment, materials, structures or
181 devices in existing water pollution abatement projects or such
182 other emergency water pollution abatement projects as the
183 commission deems necessary.

184 (c) To defray the reasonable costs of administering the
185 emergency fund and conducting activities under this section,
186 subject to annual appropriation by the Legislature.

187 (4) The commission shall establish a system of evaluating
188 the eligibility of projects, including a determination of the
189 emergency nature of a situation for which funding is sought.

190 (5) The fund will be credited with all payments of principal
191 and interest derived from the fund uses described in subsection
192 (3) of this section.

193 (6) In addition to any amounts allowed under subsection
194 (3)(c), the commission may establish and collect fees to further
195 defray the reasonable costs of administering the emergency fund.
196 Any administrative fees may be included in loan amounts to

197 political subdivisions for the purpose of facilitating payment to
198 the commission; fees may not exceed five percent (5%) of the loan
199 amount. The commission may also use administrative fees collected
200 pursuant to Section 49-17-85 to defray the reasonable costs of
201 administering the emergency fund.

202 **SECTION 3.** Section 49-17-525, Mississippi Code of 1972, is
203 brought forward as follows:

204 49-17-525. (1) (a) There is created in the State Treasury
205 a fund to be designated as the Lead-Based Paint Program Operations
206 Fund, referred to in this section as "fund," to be administered by
207 the executive director and expended by appropriation approved by
208 the Legislature.

209 (b) Monies in the fund shall be utilized to pay
210 reasonable direct and indirect costs associated with the
211 administration and enforcement of the lead-based paint activity
212 accreditation and certification program.

213 (c) Expenditures may be made from the fund upon
214 requisition by the executive director.

215 (d) The fund shall be treated as a special trust fund.
216 Interest earned on the principal therein shall be credited by the
217 Treasurer to the fund.

218 (e) The fund may receive monies from any available
219 public or private source, including, but not limited to,
220 collection of fees, interest, grants, taxes, public and private
221 donations, judicial actions and appropriated funds.

222 (f) Monies in the fund at the end of the fiscal year
223 shall be retained in the fund for use in the next succeeding
224 fiscal year to be expended by appropriation approved by the
225 Legislature.

226 (2) (a) The commission shall set by order a schedule of
227 fees for the accreditation of training programs, issuance and
228 reissuance of certificates and lead-based paint abatement
229 projects. The commission shall graduate fee levels to reflect the

230 type of certificate and the size of the project, as the case may
231 be.

232 (b) All monies collected under this section shall be
233 deposited into the fund.

234 (c) The commission may delegate to the department
235 responsibility for the collection of fees under this section.

236 (d) Any person required to pay a fee under this section
237 who disagrees with the calculation or applicability of the fee may
238 petition the commission for a hearing in accordance with Section
239 49-17-35, Mississippi Code of 1972. Any hearing shall be in
240 accordance with the provisions of Section 49-17-33, Mississippi
241 Code of 1972.

242 (e) Fees collected under this section shall not
243 supplant or reduce in any way the general fund appropriation to
244 the department.

245 **SECTION 4.** This act shall take effect and be in force from
246 and after July 1, 2004.