

By: Senator(s) Nunnelee

To: Finance

SENATE BILL NO. 2602
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 41-3-16, MISSISSIPPI CODE OF 1972, TO
2 REMOVE THE CAP ON THE LOCAL GOVERNMENTS AND RURAL DRINKING WATER
3 SYSTEMS IMPROVEMENTS LOAN AND GRANT PROGRAM; AND FOR RELATED
4 PURPOSES.

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

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

8 41-3-16. (1) (a) There is established a local governments
9 and rural water systems improvements revolving loan and grant
10 program to be administered by the State Department of Health,
11 referred to in this section as "department," for the purpose of
12 assisting counties, incorporated municipalities, districts or
13 other water organizations that have been granted tax exempt status
14 under either federal or state law, in making improvements to their
15 water systems, including construction of new water systems or
16 expansion or repair of existing water systems. Loan and grant
17 proceeds may be used by the recipient for planning, professional
18 services, acquisition of interests in land, acquisition of
19 personal property, construction, construction-related services,
20 maintenance, and any other reasonable use which the board, in its
21 discretion, may allow. For purposes of this section, "water
22 systems" has the same meaning as the term "public water system"
23 under Section 41-26-3.

24 (b) (i) There is created a board to be known as the
25 "Local Governments and Rural Water Systems Improvements Board,"
26 referred to in this section as "board," to be composed of the
27 following nine (9) members: the State Health Officer, or his
28 designee, who shall serve as chairman of the board; the Executive

29 Director of the Mississippi Development Authority, or his
30 designee; the Executive Director of the Department of
31 Environmental Quality, or his designee; the Executive Director of
32 the Department of Finance and Administration, or his designee; the
33 Executive Director of the Mississippi Association of Supervisors,
34 or his designee; the Executive Director of the Mississippi
35 Municipal League, or his designee; the Executive Director of the
36 American Council of Engineering Companies of Mississippi, or his
37 designee; the State Director of the United States Department of
38 Agriculture, Rural Development, or his designee; and a manager of
39 a rural water system.

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

46 (ii) Nonappointed members of the board may
47 designate another representative of their agency or association to
48 serve as an alternate.

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

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

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

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

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

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

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

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

157 (d) A county that receives a loan from the revolving
158 fund or the emergency fund shall pledge for repayment of the loan
159 any part of the homestead exemption annual tax loss reimbursement
160 to which it may be entitled under Section 27-33-77, as may be

161 required to meet the repayment schedule contained in the loan
162 agreement. An incorporated municipality that receives a loan from
163 the revolving fund or the emergency fund shall pledge for
164 repayment of the loan any part of the sales tax revenue
165 distribution to which it may be entitled under Section 27-65-75,
166 as may be required to meet the repayment schedule contained in the
167 loan agreement. All recipients of such loans shall establish a
168 dedicated source of revenue for repayment of the loan. Before any
169 county or incorporated municipality shall receive any loan, it
170 shall have executed with the State Tax Commission and the board a
171 loan agreement evidencing that loan. The loan agreement shall not
172 be construed to prohibit any recipient from prepaying any part or
173 all of the funds received. The repayment schedule in each loan
174 agreement shall provide for (i) monthly payments, (ii) semiannual
175 payments or (iii) other periodic payments, the annual total of
176 which shall not exceed the annual total for any other year of the
177 loan by more than fifteen percent (15%). Except as otherwise
178 provided in subsection (4) of this section, the loan agreement
179 shall provide for the repayment of all funds received from the
180 revolving fund within not more than fifteen (15) years or a term
181 as otherwise allowed by the federal Safe Drinking Water Act, and
182 all funds received from the emergency fund within not more than
183 five (5) years from the date of project completion, and any
184 repayment shall commence not later than one (1) year after project
185 completion. The State Tax Commission shall withhold semiannually
186 from counties and monthly from incorporated municipalities from
187 the amount to be remitted to the county or municipality, a sum
188 equal to the next repayment as provided in the loan agreement.

189 (e) Any county, incorporated municipality, district or
190 other water organization desiring to construct a project approved
191 by the board which receives a loan from the state for that purpose
192 but which is not eligible to pledge for repayment under the
193 provisions of paragraph (d) of this subsection, shall repay that

194 loan by making payments each month to the State Treasurer through
195 the Department of Finance and Administration for and on behalf of
196 the board according to Section 7-7-15, to be credited to either
197 the revolving fund or the emergency fund, whichever is
198 appropriate, in lieu of pledging homestead exemption annual tax
199 loss reimbursement or sales tax revenue distribution.

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

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

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

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

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

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

249 (b) To promulgate rules and regulations, to make
250 variances and exceptions thereto, and to establish procedures in
251 accordance with this section and Sections 6 through 20 of Chapter
252 521, Laws of 1995, for the implementation of the local governments
253 and rural water systems improvements revolving loan program;

254 (c) To require, at the board's discretion, any loan or
255 grant recipient to impose a per connection fee or surcharge or
256 amended water rate schedule or tariff on each customer or any
257 class of customers, benefiting from an improvement financed by a
258 loan or grant made under this section, for repayment of any loan

259 funds provided under this section and Sections 6 through 20 of
260 Chapter 521, Laws of 1995. The board may require any loan or
261 grant recipient to undergo a water system viability analysis and
262 may require a loan or grant recipient to implement any result of
263 the viability analysis. If the loan recipient fails to implement
264 any result of a viability analysis as required by the board, the
265 board may impose a monetary penalty or increase the interest rate
266 on the loan, or both. If the grant recipient fails to implement
267 any result of a viability analysis as required by the board, the
268 board may impose a monetary penalty on the grant;

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

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

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

285 (g) To maintain in accordance with generally accepted
286 government accounting standards an accurate record of all monies
287 in the revolving fund and the emergency fund made available to
288 counties, incorporated municipalities, districts or other water
289 organizations under this section and Sections 6 through 20 of
290 Chapter 521, Laws of 1995, and the costs for each project;

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

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

305 For efficient and effective administration of the loan
306 program, revolving fund and emergency fund, the board may
307 authorize the department or the State Health Officer to carry out
308 any or all of the powers and duties enumerated above.

309 (4) The board may, on a case-by-case basis and to the extent
310 allowed by federal law, renegotiate the payment of principal and
311 interest on loans made under this section to the six (6) most
312 southern counties of the state covered by the Presidential
313 Declaration of Major Disaster for the State of Mississippi
314 (FEMA-1604-DR) dated August 29, 2005, and to incorporated
315 municipalities, districts or other water organizations located in
316 such counties; however, the interest on the loans shall not be
317 forgiven for a period of more than twenty-four (24) months and the
318 maturity of the loans shall not be extended for a period of more
319 than forty-eight (48) months.

320 **SECTION 2.** This act shall take effect and be in force from
321 and after July 1, 2007.