

By: Senator(s) Nunnelee, Browning, Bryan,
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To: Local and Private;
Finance

SENATE BILL NO. 3214

1 AN ACT TO AMEND CHAPTER 920, LOCAL AND PRIVATE LAWS OF 1988,
2 AS AMENDED BY CHAPTER 967, LOCAL AND PRIVATE LAWS OF 1994, TO
3 AUTHORIZE THE ISSUANCE OF ADDITIONAL BONDS FOR USE BY THE NORTH
4 EAST MISSISSIPPI REGIONAL WATER SUPPLY DISTRICT; TO AUTHORIZE THE
5 PROCEEDS OF BONDS ISSUED PURSUANT TO THIS CHAPTER BE UTILIZED BY
6 THE DISTRICT TO PAY THE COST OF FACILITIES NECESSARY TO SERVE THE
7 WELLSRING PROJECT AND FOR CERTAIN OTHER PURPOSES; AND FOR RELATED
8 PURPOSES.

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

10 **SECTION 1.** Chapter 920, Local and Private Laws of 1988, as
11 amended by Chapter 967, Local and Private Laws of 1994, is amended
12 as follows:

13 Section 1. Whenever used in this act, unless a different
14 meaning clearly appears in the context, the following terms shall
15 be given the following meanings:

16 (a) "Bonds" shall include notes, bonds and other
17 obligations authorized to be issued under this act.

18 (b) "City" means the City of Tupelo, Mississippi.

19 (c) "Cost" as applied to the delivery of water service
20 to a governmental entity or water association, means an amount
21 equal to a proportional share of (i) the expenses of construction
22 and acquisition of the project amortized over the term of the
23 bonds issued for construction of the project, (ii) the expenses of
24 construction and acquisition of improvements to the project
25 amortized over the useful life of such improvements, (iii)
26 financing cost for the project and the aforesaid capital
27 improvements including the cost of interest on the bonds and debt
28 obligations issued to finance such improvements, less the annual
29 proceeds of the sales tax provided for in Section 5 of this act,
30 and (iv) operation and maintenance expenses pertaining to the

31 project as it may be improved from time to time, including a
32 reasonably required reserve fund for repair and renovation of the
33 project. The components of cost set forth above shall be
34 determined by a certified public accounting firm designated by the
35 district and acceptable to other users of the project. There
36 shall be deducted from such components of costs set forth above,
37 the proceeds of the special sales tax which will be used to pay
38 the principal of and interest on the bonds as provided in Section
39 12 hereof.

40 (d) "County" means Lee County, Mississippi.

41 (e) "District" means the North East Mississippi
42 Regional Water Supply District created pursuant to Section 51-8-1
43 et seq., Mississippi Code of 1972, as said district may be
44 constituted from time to time. Local governmental units are
45 entitled to join such district as provided by law.

46 (f) "Governing body" means the Mayor and City Council
47 of the City of Tupelo, Mississippi.

48 (g) "Project" means an intake facility to obtain water
49 from the Tombigbee River and Tennessee-Tombigbee Waterway,
50 treatment facilities, transmission lines and related facilities,
51 including, but not limited to, those facilities necessary to serve
52 the Wellspring Project. The term "project" shall include any
53 drainage, wastewater treatment or disposal facilities. The term
54 "project" may include multiple separate projects.

55 (h) "System" means the combined waterworks and sewerage
56 system of the city.

57 (i) "Wellspring Project" means the industrial
58 development site established by Pontotoc, Union and Lee Counties,
59 Mississippi, consisting of approximately one thousand seven
60 hundred (1,700) acres adjacent to Interstate 22 (U.S. Highway 78)
61 near the Blue Springs interchange and the improvement and
62 development of such site for industrial and commercial purposes.

63 Section 2. (1) It is hereby determined and declared to be
64 in the best interest of the people of the city, the county and the
65 surrounding area to provide an adequate supply of water both for
66 residential and industrial use. It is in the public interest that
67 the city's critical water shortage be eliminated and that the
68 water shortage problem which exists in the area be alleviated.
69 The construction of the project will assure the maintenance and
70 improvement of the living conditions of the people of northeast
71 Mississippi, the continuation of industrial, commercial and
72 economic opportunities in the area, including, but not limited to,
73 the Wellspring Project, and the enhancement of the health and
74 welfare of the area's people, particularly its heaviest
75 groundwater users, in the years to come.

76 (2) The city shall endeavor to alleviate the regional water
77 shortage problem through cooperative efforts and agreements for
78 the benefit of communities in the surrounding area. If any county
79 located in whole or in part in the Eutaw-McShan aquifer is
80 declared by the Department of Environmental Quality to be in an
81 emergency situation as outlined in paragraph (1) above, such
82 county may petition the district for access to the project and
83 shall be granted access by the district. Any additions to the
84 project shall be paid for with user fees which shall be assessed
85 equally in all participating counties.

86 Section 3. The governing body is hereby authorized to issue
87 general obligation bonds of the city in the aggregate principal
88 amount not to exceed Twenty-three Million Dollars (\$23,000,000.00)
89 prior to March 2, 2007, and not to exceed an additional Thirty
90 Million Dollars (\$30,000,000.00) thereafter to raise money for the
91 construction and acquisition of the project and payment of
92 interest on bonds, establishment of reserves to secure such bonds
93 and payment of expenses incident to the issuance of such bonds and
94 to the implementation of the project. The bonds shall be general
95 obligations of the city, but shall not be considered when

96 computing any limitation of indebtedness of the city established
97 by law. Bonds that are issued under the provisions of this act
98 after March 2, 2007, other than refunding bonds, shall be issued
99 at one or more times and may be issued on a parity with any other
100 bonds issued under the provisions of this act, so long as the
101 first series of such bonds is issued no later than the later of:

102 (a) Two (2) years after the effective date of this act;

103 (b) Two (2) years after the current City of Tupelo
104 Water Bonds issued under the authority of Chapter 967, Local and
105 Private Laws of 1994, mature and are paid; or

106 (c) Two (2) years after the final termination of any
107 litigation affecting the issuance of the bonds.

108 Section 4. * * * Any bonds issued pursuant to this act shall
109 be issued in accordance with the provisions of Title 21, Chapter
110 33, Article 5, Mississippi Code of 1972, except that if such
111 provisions conflict with the provisions of this act, the
112 provisions of this act shall prevail. The full faith, credit and
113 resources of the city shall be irrevocably pledged for the payment
114 of the principal of and interest on the bonds.

115 Section 5. Before any bonds shall be issued pursuant to this
116 act, the imposition of a special sales tax, in addition to all
117 other taxes now imposed, at the rate of one-quarter of one percent
118 (0.25%) upon all sales and services within the city which are
119 subject to the general rate of state sales tax. * * * Fifty
120 percent (50%) of the * * * cost * * * of any project or projects
121 shall come from proceeds received from such special sales tax and
122 fifty percent (50%) of the * * * cost * * * of any project or
123 projects shall come from other sources and user fees. * * *

124 Section 6. Bonds issued under this act may be issued as
125 registered bonds pursuant to the provisions of Title 31, Chapter
126 21, Mississippi Code of 1972, or in bearer form either as to
127 principal or interest or both, * * * may contain such covenants
128 and provisions, may be issued as term or serial bonds, in one or

129 more series, may be executed and delivered at any time, and from
130 time to time, may be in such form and denomination, may be of such
131 tenor, may be payable in such installments and at such time or
132 times, not exceeding twenty-five (25) years from their date of
133 issuance, may be payable at such place or places and evidenced in
134 such manner, may be callable with or without premium, may bear
135 such rate or rates of interest and may contain such other
136 provisions not inconsistent herewith, all as shall be provided in
137 the proceedings of the governing body whereunder the bonds shall
138 be directed to be issued. Bonds issued under this act may be sold
139 either at public sale in the manner provided by Section 31-19-25,
140 Mississippi Code of 1972, or at private sale, in the discretion of
141 the governing body.

142 Section 7. No bond issued under this act shall bear a
143 greater overall maximum interest rate to maturity than that
144 allowed in Section 75-17-101, Mississippi Code of 1972, and no
145 bond may bear more than one (1) rate of interest; each bond shall
146 bear interest from its date to its stated maturity date at the
147 interest rate specified in the bonds; all bonds of the same
148 maturity shall bear the same rate of interest from date to
149 maturity. All interest accruing on bonds issued under this act
150 shall be payable semiannually or annually, except that the first
151 interest payment for any bond may be for any period not exceeding
152 one (1) year. No interest payment shall be evidenced by more than
153 one (1) coupon and neither cancelled nor supplemental coupons
154 shall be permitted. The lowest interest rate specified for any
155 bonds sold shall not be less than seventy percent (70%) of the
156 highest rate specified for the same bond issue.

157 Section 8. Bonds issued under this act shall be executed on
158 behalf of the city by the manual or facsimile signature of the
159 mayor and clerk of the city with the manual or facsimile seal of
160 the city affixed or imprinted thereon. At least one (1) signature
161 on each bond shall be a manual signature, whether of the mayor,

162 city clerk or authenticating agent. If the officers whose
163 signatures or countersignatures appear on the bonds or interest
164 coupons shall cease to be such officers before delivery of the
165 bonds, such signatures or countersignatures shall nevertheless be
166 valid and sufficient for all purposes the same as if they had
167 remained in the office until such delivery.

168 Section 9. Bonds issued under this act and all interest
169 coupons applicable thereto shall be construed to be negotiable
170 instruments, despite the fact that they are payable solely from a
171 specified source, and shall be securities within the meaning of
172 Article 8 of the Mississippi Uniform Commercial Code.

173 Section 10. (1) The principal proceeds received upon the
174 sale of the bonds shall be deposited with a qualified depository
175 of the city in a special fund in the name of the city from which
176 there shall be first paid all expenses, premiums, fees and
177 commissions incurred by the city and deemed necessary or
178 advantageous by the governing body in connection with the
179 authorization, issuance, sale, validation and delivery of the
180 bonds.

181 (2) The balance of such proceeds shall be paid to the
182 district and deposited with a qualified depository of the
183 district. Such funds shall be held and disbursed for the project
184 and may be used (a) for the project, (b) to pay interest on the
185 bonds while the project is being completed and for a maximum of
186 six (6) months after the estimated date of completion, (c) to pay
187 engineering, fiscal, trustee, printing, accounting, financial
188 advisor, construction manager, feasibility consultant and legal
189 expenses, and development expenses incurred in connection with
190 such project, and related structures and facilities, and the
191 issuance of the bonds, (d) to provide for the establishment of a
192 reasonable reserve fund for the payment of principal of and
193 interest on the bonds in the event of a deficiency in the revenues
194 and receipts available for such payments, if such fund is provided

195 for in the proceedings of the governing body in connection with
196 the issuance of bonds, (e) to pay the premium or premiums on any
197 insurance or any form of guarantee obtained from any source to
198 assure the prompt payment of principal and interest when due, (f)
199 to pay start-up costs and costs of operation and maintenance of
200 the project and related structures and facilities while it is
201 being established, erected, built, constructed, replaced,
202 remodeled, renovated, added to, equipped or furnished and for a
203 maximum of thirty-six (36) months after the estimated date of
204 completion, (g) to provide for the payment of interim indebtedness
205 incurred prior to the issuance of any bonds under this act and
206 used for the purposes set forth above, and (h) to pay costs
207 related to any suits and proceedings in connection with the
208 project, including any costs of settlement thereof.

209 Section 11. (1) On or before the fifteenth day prior to the
210 imposition of the special sales tax authorized in Section 5 of
211 this act, the governing body shall give written notification to
212 the Chairman of the State Tax Commission of the date on which the
213 special sales tax will become effective.

214 (2) Such tax shall be collected in the same manner as the
215 state sales tax imposed by Title 27, Chapter 65, Mississippi Code
216 of 1972, and shall be accounted for separately from the amount of
217 sales tax collected for the state in the city. All provisions of
218 the Mississippi Sales Tax Law applicable to filing of such
219 returns, discounts to the taxpayer, remittances to the State Tax
220 Commission and retainage thereby of sums to defray the costs of
221 collection, collection enforcement, rights of taxpayers, recovery
222 of improper taxes, refunds of overpaid taxes or other provisions
223 of said chapter providing for imposition and collection of the
224 sales tax shall apply to the tax authorized by this act.

225 (3) On or before the fifteenth day of each month, the
226 revenue from the special sales tax collected under the provisions
227 of this section during the preceding month shall be paid and

228 distributed to the trustee provided in Section 13 of this act on
229 behalf of the city. Such special sales tax shall stand repealed
230 at the time and in the manner provided in subsection (3) of
231 Section 13 of this act.

232 * * *

233 Section 12. (1) Bonds issued under this act may be refunded
234 at any time and from time to time by the city pursuant to an
235 authorizing resolution of the governing body, directing the
236 issuance of refunding bonds in accordance with the Mississippi
237 Bond Refinancing Act, Section 31-27-1 et seq.

238 (2) The city shall have the authority to enter into an
239 investment agreement with a financial institution incorporated
240 under the laws of the United States or the laws of any state in
241 the United States providing assurances with respect to the return
242 on investment of funds received by the city in connection with the
243 issuance of refunding bonds.

244 Section 13. (1) The bonds shall be secured by a trust
245 agreement by and between the city and a corporate trustee, which
246 may be any trust company or bank incorporated under the laws of
247 the United States or the laws of any state in the United States.
248 Any such trust agreement shall pledge for the payment of the
249 principal of, redemption premium, if any, and interest on the
250 bonds, the proceeds of the special sales tax provided for in this
251 act and may provide for any other source of payment which may from
252 time to time be made available to pay debt service on the bonds,
253 including revenues of the project, subject to the provisions of
254 subsection (3) of this section. The avails of the special sales
255 tax shall be used solely for the payment of the principal of,
256 redemption premium, if any, and interest on the bonds, including
257 any bonds issued prior to March 2, 2007, and for the payment of
258 expenses of issuance thereof or reserve funds therefor and shall
259 not be used to lower or offset any user fees which are required
260 under this act to pay fifty percent (50%) of the initial cost of

261 construction of the project. To the extent the proceeds of the
262 special sales tax and any other amounts which may from time to
263 time be available for the payment of the principal of, redemption
264 premium, if any, and interest on the bonds, including any
265 available revenues of the project, are not sufficient for such
266 purpose, the governing body shall levy a special ad valorem tax
267 upon all of the taxable property within the city which shall be
268 sufficient, together with other monies available for such purpose,
269 to provide for the payment of the principal of, redemption
270 premium, if any, and interest on such bonds according to the terms
271 thereof.

272 (2) Such trust agreement may provide for the creation and
273 maintenance of such reserve funds as the governing body shall
274 determine are reasonable and proper, including such sinking fund
275 or funds as may be necessary to provide for the payment of the
276 principal of, redemption premium, if any, and interest on the
277 bonds, subject to the provisions of subsection (3) of this
278 section. Any such trust agreement or any resolution directing the
279 issuance of bonds may contain such provisions for protecting and
280 enforcing the rights and remedies of the registered owners thereof
281 as may be reasonable and proper and not in violation of law,
282 including the duties of the city in relation to the acquisition of
283 property and the construction, improvement, equipping, furnishing,
284 maintenance, repair, operation and insurance of the project and
285 the custody, safeguarding and application of all monies.

286 (3) Such trust agreement shall provide for the creation of a
287 fund which is separate and apart from any other fund authorized
288 under this section. The trustee shall deposit into such fund all
289 special sales tax revenues imposed and collected under this act
290 subject, however, to any pledge of such revenues made as security
291 for bonds issued by the city prior to March 2, 2007. The special
292 sales tax revenues deposited into the fund shall be invested in
293 the manner provided by law for the investment of public funds.

294 Such special sales tax revenues, including interest earned
295 thereon, shall be used to pay not more than fifty percent (50%) of
296 the principal of and interest on such bonds as they become due and
297 payable on any payment date. The trustee shall determine when the
298 special sales taxes which it has actually received, together with
299 any income actually realized from the investment of such special
300 sales tax revenues, are sufficient to pay fifty percent (50%) of
301 the principal of and interest on bonds then outstanding, as such
302 bonds and the interest thereon mature and accrue to the final
303 maturity date; and, to the extent not needed for such purposes,
304 the avails of the special sales tax may be used to pay the costs
305 of any additions to the project or projects. The authority to
306 levy such special sales tax shall stand repealed on the first day
307 of the month immediately succeeding the payment in full of the
308 principal of and interest on all bonds issued pursuant to Section
309 3 of this act. The balance of any funds remaining in the fund
310 described in this subsection after final payment of all principal
311 of and interest on the bonds as herein provided shall be remitted
312 to the district. It is the intent of the Legislature that not
313 more than fifty percent (50%) of the principal of and interest on
314 the bonds issued under this act and any costs incident thereto
315 shall be paid from the special sales tax and the interest earned
316 thereon.

317 (4) Any such trust agreement may set forth the rights and
318 remedies of the registered owners of the bonds and of the trustee,
319 and may restrict the individual right of action by such registered
320 owners as is customary in trust agreements or trust indentures
321 securing bonds and debentures of corporations. Further, any such
322 trust agreement may contain such provisions as the city may deem
323 reasonable and proper for the security of such registered owners
324 and may also contain provisions governing the issuance of bonds to
325 replace lost, stolen or mutilated bonds.

326 (5) Any such trust agreement may contain a provision that,
327 in the event of a default in the payment of the principal of,
328 redemption premium, if any, or the interest on the bonds issued in
329 accordance with or relating to, such agreement or in the
330 performance of any agreement contained in the proceedings, trust
331 agreement or instruments relating to such bonds, such payment and
332 performance may be enforced by mandamus or by the appointment of a
333 receiver in equity.

334 (6) All expenses incurred by the city in carrying out the
335 provisions of any such trust agreement may be treated as a part of
336 the cost of the operation of the project.

337 (7) Any surplus funds, excluding special sales tax revenues
338 and interest earned thereon, received by the trustee after payment
339 in full of the principal of, redemption premium, if any, and
340 interest on the bonds, or provision therefor having been made,
341 shall be paid over to the city and expended for improvements,
342 repairs and extensions to the project.

343 Section 14. (1) Bonds issued under this act and the income
344 therefrom shall be exempt from all taxation in the State of
345 Mississippi, excepting inheritance and gift taxes.

346 (2) Bonds issued under this act shall be legal investments
347 for commercial banks, savings and loan associations and insurance
348 companies organized under the laws of this state.

349 Section 15. Bonds issued under this act shall be submitted
350 to validation as provided by Title 31, Chapter 13, Mississippi
351 Code of 1972, and to that end the city clerk shall be directed to
352 make up a transcript of all legal papers and proceedings relating
353 to the bonds and to certify and forward the same to the state's
354 bond attorney for the institution of validation proceedings.

355 Section 16. The governing body, the board of supervisors of
356 any county or the governing authorities of any city in which a
357 part of the project or projects are located are authorized to
358 exercise such powers of eminent domain as are required by the

359 public convenience and necessity to acquire property, or interests
360 therein, whether real, personal or mixed, on which to construct
361 the project or any part thereof.

362 Section 17. (1) The project shall be owned by the district.
363 The district is authorized to contract with any agency, department
364 or other office of government or any individual, partnership,
365 corporation, utility or water management district, county or
366 municipality, and each of those entities are authorized to
367 contract with the district for the acquisition, treatment or
368 furnishing of water or providing of property, equipment or
369 services by or to the district regarding the construction, funding
370 or operation of the project and to contract for the management of
371 the project or any part thereof by any individual, partnership or
372 corporation or governmental entity. The district is further
373 authorized, to the extent that the governing body determines to be
374 in the best interest of the city and the surrounding area, to
375 sell, lease or otherwise convey any of the facilities or property
376 constituting a part of or pertaining to the project and to
377 contract with any of the above entities regarding such sale, lease
378 or conveyance. The authority to levy and collect the special
379 taxes provided for in this act shall not be adversely affected by
380 any such contract, agreement, sale, lease or conveyance.

381 (2) Such agreement may contain a provision whereby the
382 entity contracting with the district agrees to take an established
383 amount of water at an established rate or to pay an amount if it
384 does not require the established amount or if the project is not
385 able to provide water in such amounts in the applicable time
386 periods. The district is further authorized to lease any of the
387 facilities or property constituting a part of or pertaining to the
388 project and to contract with any of the above entities regarding
389 such lease. The authority to levy and collect the special tax
390 provided for in this act shall not be adversely affected by any
391 agreement entered into pursuant to this section. The revenues and

392 expenses of the project shall be accounted for so that the cost of
393 water service can be determined as provided in this act. The
394 district shall sell water from the project to each governmental
395 entity or water association within the district at the cost of
396 such water service.

397 Section 18. The district shall pledge a sufficient portion
398 of its revenues received from the sale of water from the project,
399 after payment of the expense of operation and maintenance of the
400 project, to the payment of principal of and interest on any bonds
401 as the same comes due to the extent the same is not paid with the
402 proceeds of the sales tax referenced in Section 5 herein. The
403 proceedings of the governing body in connection with the issuance
404 of bonds, pursuant to agreement with the district, may provide for
405 the payment of a sufficient portion of such revenues to the
406 trustee provided for herein, and may contain such other provision
407 regarding the priority of such pledge as shall be contained
408 therein and in any agreements between the district and any other
409 contracting party, including the city.

410 Section 19. This act, without reference to any other
411 statute, shall be deemed to be full and complete authority for the
412 issuance of bonds under this act, and shall be construed as an
413 additional and alternative method therefor, and none of the
414 present restrictions, requirements, conditions or limitations of
415 law applicable to the issuance or sale of bonds, notes or other
416 obligations by municipalities of this state shall apply to the
417 issuance and sale of bonds under this act, and no proceedings
418 shall be required for the issuance of such bonds other than those
419 provided for and required herein. All other powers and authority
420 provided for or granted in this act, other than the levy of taxes
421 authorized under this act, may be exercised whether or not bonds
422 are issued pursuant to this act. All powers necessary to be
423 exercised in order to carry out the provisions of this act are
424 hereby conferred.

425 Section 20. Nothing in this act shall prohibit other
426 political subdivisions from obtaining water from the Tombigbee
427 River and the Tennessee-Tombigbee Waterway as provided by state
428 law.

429 Section 21. Nothing contained in this act (Senate Bill No.
430 3214, 2007 Regular Session) shall effect any bonds issued by the
431 city prior to March 2, 2007, or the security pledged therefor or
432 any agreement entered into with respect to the security for such
433 bonds.

434 Section 22. No member of the Legislature, elected official
435 or appointed official, or any partner or associate of any member
436 of the Legislature, elected official or appointed official shall
437 derive any income from the issuance of any bonds under this act.

438 **SECTION 2.** This act shall take effect and be in force from
439 and after its passage.