

By: Representative Shanks

To: Public Health and Human Services

HOUSE BILL NO. 764

1 AN ACT TO REENACT SECTIONS 41-3-1.1, 41-3-3, 41-3-4,
 2 41-3-5.1, 41-3-6, 41-3-15, 41-3-16, 41-3-17, 41-3-18 AND 41-3-19,
 3 MISSISSIPPI CODE OF 1972, WHICH CREATE THE STATE BOARD OF HEALTH,
 4 ESTABLISH THE POSITION OF EXECUTIVE OFFICER OF THE STATE
 5 DEPARTMENT OF HEALTH, AND ESTABLISH AND PRESCRIBE THE POWERS AND
 6 DUTIES OF THE STATE DEPARTMENT OF HEALTH; TO AMEND SECTION
 7 41-3-20, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF THE
 8 REPEALER ON THOSE REENACTED STATUTES; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** Section 41-3-1.1, Mississippi Code of 1972, is
 11 reenacted as follows:

12 41-3-1.1. (1) The State Board of Health is continued and
 13 reconstituted as follows:

14 There is created the State Board of Health which, from and
 15 after March 30, 2007, shall consist of eleven (11) members
 16 appointed with the advice and consent of the Senate, as follows:

17 (a) Five (5) members of the board shall be currently
 18 licensed physicians of good professional standing who have had at
 19 least seven (7) years' experience in the practice of medicine in
 20 this state. Three (3) members shall be appointed by the Governor,
 21 one (1) member shall be appointed by the Lieutenant Governor, and



22 one (1) member shall be appointed by the Attorney General, in the
23 manner provided in paragraph (d) of this subsection (1).

24 (b) Six (6) members of the board shall be individuals
25 who have a background in public health or an interest in public
26 health who are not currently or formerly licensed physicians.
27 Four (4) of those members shall be appointed by the Governor, one
28 (1) of those members shall be appointed by the Lieutenant
29 Governor, and one (1) of those members shall be appointed by the
30 Attorney General, in the manner provided in paragraph (d) of this
31 subsection (1).

32 (c) The Governor, Lieutenant Governor and Attorney
33 General shall give due regard to geographic distribution, race and
34 gender in making their appointments to the board. It is the
35 intent of the Legislature that the membership of the board reflect
36 the population of the State of Mississippi. Of the Governor's
37 appointments, one (1) member of the board shall be appointed from
38 each of the four (4) congressional districts as constituted on
39 June 30, 2007, and one (1) member of the board shall be appointed
40 from each of the three (3) Supreme Court districts as constituted
41 on June 30, 2007. Of the Lieutenant Governor's appointments, one
42 (1) member of the board shall be appointed from the First
43 Congressional District and one (1) member of the board shall be
44 appointed from the Fourth Congressional District as constituted on
45 June 30, 2007. Of the Attorney General's appointments, one (1)
46 member of the board shall be appointed from the Second



47 Congressional District and one (1) member of the board shall be
48 appointed from the Third Congressional District as constituted on
49 June 30, 2007.

50 (d) The initial members of the board shall be appointed
51 for staggered terms, as follows: Of the Governor's appointments,
52 two (2) members shall be appointed for terms that end on June 30,
53 2009; two (2) members shall be appointed for terms that end on
54 June 30, 2011; and three (3) members shall be appointed for terms
55 that end on June 30, 2013. Of the Lieutenant Governor's
56 appointments, one (1) member shall be appointed for a term that
57 ends on June 30, 2009; and one (1) member shall be appointed for a
58 term that ends on June 30, 2013. Of the Attorney General's
59 appointments, one (1) member shall be appointed for a term that
60 ends on June 30, 2009; and one (1) member shall be appointed for a
61 term that ends on June 30, 2011.

62 A member of the board serving before January 1, 2007, shall
63 be eligible for reappointment to the reconstituted board unless
64 the person is disqualified under subsection (4) of this section.

65 (2) At the expiration of the terms of the initial members,
66 all members of the board shall be appointed by the Governor, in
67 the same manner and from the same districts prescribed in
68 subsection (1) of this section, for terms of six (6) years from
69 the expiration of the previous term and thereafter until his or
70 her successor is duly appointed. Vacancies in office shall be
71 filled by appointment in the same manner as the appointment to the



72 position that becomes vacant, subject to the advice and consent of
73 the Senate at the next regular session of the Legislature. An
74 appointment to fill a vacancy other than by expiration of a term
75 of office shall be for the balance of the unexpired term and
76 thereafter until his or her successor is duly appointed.

77 (3) The Lieutenant Governor may designate one (1) Senator
78 and the Speaker of the House of Representatives may designate one
79 (1) Representative to attend any meeting of the State Board of
80 Health. The appointing authorities may designate alternate
81 members from their respective houses to serve when the regular
82 designees are unable to attend the meetings of the board. Those
83 legislative designees shall have no jurisdiction or vote on any
84 matter within the jurisdiction of the board. For attending
85 meetings of the board, the legislators shall receive per diem and
86 expenses, which shall be paid from the contingent expense funds of
87 their respective houses in the same amounts as provided for
88 committee meetings when the Legislature is not in session;
89 however, no per diem and expenses for attending meetings of the
90 board will be paid while the Legislature is in session. No per
91 diem and expenses will be paid except for attending meetings of
92 the board without prior approval of the proper committee in their
93 respective houses.

94 (4) (a) All members of the State Board of Health shall file
95 with the Mississippi Ethics Commission, before the first day of



96 May each year, the statement of economic interest as required by
97 Sections 25-4-25 through 25-4-29.

98 (b) No member of the board shall participate in any
99 action by the board or department if that action could have any
100 monetary effect on any business with which that member is
101 associated, as defined in Section 25-4-103.

102 (c) When any matter in which a member may not
103 participate comes before the board or department, that member must
104 fully recuse himself or herself from the entire matter. The
105 member shall avoid debating, discussing or taking action on the
106 subject matter during official meetings or deliberations by
107 leaving the meeting room before the matter comes before the board
108 and by returning only after the discussion, vote or other action
109 is completed. The member shall not discuss the matter with other
110 members, department staff or any other person. Any minutes or
111 other record of the meeting shall accurately reflect the recusal.
112 If a member is uncertain whether recusal is required, the member
113 shall follow the determination of the Mississippi Ethics
114 Commission. The commission may delegate that determination to its
115 executive director.

116 (d) Upon a determination by the board or by any court
117 of competent jurisdiction that a member of the board has violated
118 the provisions of this subsection (4) regarding recusal, the
119 member shall be removed from office. Any member of the board who
120 violates the provisions of this section regarding recusal also



121 shall be subject to the penalties set forth in Sections 25-4-109
122 through 25-4-117. After removal from office, the member shall not
123 be eligible for appointment to any agency, board or commission of
124 the state for a period of two (2) years. Nothing in this section
125 shall be construed to limit the restrictions codified in Section
126 25-4-105.

127 **SECTION 2.** Section 41-3-3, Mississippi Code of 1972, is
128 reenacted as follows:

129 41-3-3. Each person appointed as a member of the State Board
130 of Health shall immediately take the oath prescribed by Section
131 268 of the Constitution and file a certificate thereof in the
132 Office of the Secretary of State. Thereupon a commission shall be
133 issued to him under the terms as specified in Section 41-3-1.

134 **SECTION 3.** Section 41-3-4, Mississippi Code of 1972, is
135 reenacted as follows:

136 41-3-4. (1) There shall be a Chairman and Vice Chairman of
137 the State Board of Health elected by and from its membership at
138 the first meeting of the board; and the chairman shall be the
139 presiding officer of the board. The chairman shall always be a
140 physician member of the board. The board shall adopt rules and
141 regulations governing times and places for meetings, and governing
142 the manner of conducting its business. The board shall meet not
143 less frequently than once each quarter, and at such other times as
144 determined to be necessary. The term of office of any member who
145 does not attend three (3) consecutive regular meetings of the



146 board shall be automatically terminated, and the position shall be
147 considered as vacant, except in cases of the serious illness of a
148 board member or of his or her immediate family member. All
149 meetings of the board shall be called by the chairman or by a
150 majority of the members of the board, except the first meeting of
151 the initial members of the reconstituted board, which shall be
152 called by the Governor.

153 (2) The members of the board shall receive no annual salary
154 but shall receive per diem compensation as is authorized by law
155 for each day devoted to the discharge of official board duties and
156 shall be entitled to reimbursement for all actual and necessary
157 expenses incurred in the discharge of their duties, including
158 mileage as authorized by Section 25-3-41.

159 **SECTION 4.** Section 41-3-5.1, Mississippi Code of 1972, is
160 reenacted as follows:

161 41-3-5.1. The State Department of Health shall be headed by
162 an executive officer who shall be appointed by the State Board of
163 Health. The executive officer shall be either a physician who has
164 earned a graduate degree in public health or health care
165 administration, or a physician who in the opinion of the board is
166 fitted and equipped to execute the duties incumbent upon him or
167 her by law. The executive officer shall not engage in the private
168 practice of medicine. The term of office of the executive officer
169 shall be six (6) years, and the executive officer may be removed
170 for cause by majority vote of the members of the board. The



171 executive officer shall be subject to such rules and regulations
172 as may be prescribed by the State Board of Health. The executive
173 officer shall be the State Health Officer with such authority and
174 responsibility as is prescribed by law.

175 **SECTION 5.** Section 41-3-6, Mississippi Code of 1972, is
176 reenacted as follows:

177 41-3-6. It shall be the duty of the State Board of Health to
178 review the statutes of the State of Mississippi affecting public
179 health and submit at least thirty (30) days prior to each regular
180 session of the Legislature any proposed legislation as may be
181 necessary to enhance the effective and efficient delivery of
182 public health services and to bring existing statutes into
183 compliance with modern technology and terminology. The board
184 shall formulate a plan for consolidating and reorganizing existing
185 state agencies having responsibilities in the field of public
186 health to eliminate any needless duplication in services which may
187 be found to exist. In carrying out the provisions of this
188 section, the State Board of Health shall cooperate with and may
189 utilize the services, facilities and personnel of any department
190 or agency of the state, any private citizen task force and the
191 committees on public health of both houses of the Legislature.
192 The State Board of Health is authorized to apply for and expend
193 funds made available to it by grant from any source in order to
194 perform its responsibilities under this section.



195 **SECTION 6.** Section 41-3-15, Mississippi Code of 1972, is
196 reenacted as follows:

197 41-3-15. (1) (a) There shall be a State Department of
198 Health.

199 (b) The State Board of Health shall have the following
200 powers and duties:

201 (i) To formulate the policy of the State
202 Department of Health regarding public health matters within the
203 jurisdiction of the department;

204 (ii) To adopt, modify, repeal and promulgate,
205 after due notice and hearing, and enforce rules and regulations
206 implementing or effectuating the powers and duties of the
207 department under any and all statutes within the department's
208 jurisdiction, and as the board may deem necessary;

209 (iii) To apply for, receive, accept and expend any
210 federal or state funds or contributions, gifts, trusts, devises,
211 bequests, grants, endowments or funds from any other source or
212 transfers of property of any kind;

213 (iv) To enter into, and to authorize the executive
214 officer to execute contracts, grants and cooperative agreements
215 with any federal or state agency or subdivision thereof, or any
216 public or private institution located inside or outside the State
217 of Mississippi, or any person, corporation or association in
218 connection with carrying out the provisions of this chapter, if it
219 finds those actions to be in the public interest and the contracts



220 or agreements do not have a financial cost that exceeds the
221 amounts appropriated for those purposes by the Legislature;

222 (v) To appoint, upon recommendation of the
223 Executive Officer of the State Department of Health, a Director of
224 Internal Audit who shall be either a Certified Public Accountant
225 or Certified Internal Auditor, and whose employment shall be
226 continued at the discretion of the board, and who shall report
227 directly to the board, or its designee; and

228 (vi) To discharge such other duties,
229 responsibilities and powers as are necessary to implement the
230 provisions of this chapter.

231 (c) The Executive Officer of the State Department of
232 Health shall have the following powers and duties:

233 (i) To administer the policies of the State Board
234 of Health within the authority granted by the board;

235 (ii) To supervise and direct all administrative
236 and technical activities of the department, except that the
237 department's internal auditor shall be subject to the sole
238 supervision and direction of the board;

239 (iii) To organize the administrative units of the
240 department in accordance with the plan adopted by the board and,
241 with board approval, alter the organizational plan and reassign
242 responsibilities as he or she may deem necessary to carry out the
243 policies of the board;



244 (iv) To coordinate the activities of the various
245 offices of the department;

246 (v) To employ, subject to regulations of the State
247 Personnel Board, qualified professional personnel in the subject
248 matter or fields of each office, and such other technical and
249 clerical staff as may be required for the operation of the
250 department. The executive officer shall be the appointing
251 authority for the department, and shall have the power to delegate
252 the authority to appoint or dismiss employees to appropriate
253 subordinates, subject to the rules and regulations of the State
254 Personnel Board;

255 (vi) To recommend to the board such studies and
256 investigations as he or she may deem appropriate, and to carry out
257 the approved recommendations in conjunction with the various
258 offices;

259 (vii) To prepare and deliver to the Legislature
260 and the Governor on or before January 1 of each year, and at such
261 other times as may be required by the Legislature or Governor, a
262 full report of the work of the department and the offices thereof,
263 including a detailed statement of expenditures of the department
264 and any recommendations the board may have;

265 (viii) To prepare and deliver to the Chairmen of
266 the Public Health and Welfare/Human Services Committees of the
267 Senate and House on or before January 1 of each year, a plan for
268 monitoring infant mortality in Mississippi and a full report of



269 the work of the department on reducing Mississippi's infant
270 mortality and morbidity rates and improving the status of maternal
271 and infant health; and

272 (ix) To enter into contracts, grants and
273 cooperative agreements with any federal or state agency or
274 subdivision thereof, or any public or private institution located
275 inside or outside the State of Mississippi, or any person,
276 corporation or association in connection with carrying out the
277 provisions of this chapter, if he or she finds those actions to be
278 in the public interest and the contracts or agreements do not have
279 a financial cost that exceeds the amounts appropriated for those
280 purposes by the Legislature. Each contract or agreement entered
281 into by the executive officer shall be submitted to the board
282 before its next meeting.

283 (2) The State Board of Health shall have the authority to
284 establish an Office of Rural Health within the department. The
285 duties and responsibilities of this office shall include the
286 following:

287 (a) To collect and evaluate data on rural health
288 conditions and needs;

289 (b) To engage in policy analysis, policy development
290 and economic impact studies with regard to rural health issues;

291 (c) To develop and implement plans and provide
292 technical assistance to enable community health systems to respond
293 to various changes in their circumstances;



294 (d) To plan and assist in professional recruitment and
295 retention of medical professionals and assistants; and

296 (e) To establish information clearinghouses to improve
297 access to and sharing of rural health care information.

298 (3) The State Board of Health shall have general supervision
299 of the health interests of the people of the state and to exercise
300 the rights, powers and duties of those acts which it is authorized
301 by law to enforce.

302 (4) The State Board of Health shall have authority:

303 (a) To make investigations and inquiries with respect
304 to the causes of disease and death, and to investigate the effect
305 of environment, including conditions of employment and other
306 conditions that may affect health, and to make such other
307 investigations as it may deem necessary for the preservation and
308 improvement of health.

309 (b) To make such sanitary investigations as it may,
310 from time to time, deem necessary for the protection and
311 improvement of health and to investigate nuisance questions that
312 affect the security of life and health within the state.

313 (c) To direct and control sanitary and quarantine
314 measures for dealing with all diseases within the state possible
315 to suppress same and prevent their spread.

316 (d) To obtain, collect and preserve such information
317 relative to mortality, morbidity, disease and health as may be



318 useful in the discharge of its duties or may contribute to the
319 prevention of disease or the promotion of health in this state.

320 (e) To charge and collect reasonable fees for health
321 services, including immunizations, inspections and related
322 activities, and the board shall charge fees for those services;
323 however, if it is determined that a person receiving services is
324 unable to pay the total fee, the board shall collect any amount
325 that the person is able to pay. Any increase in the fees charged
326 by the board under this paragraph shall be in accordance with the
327 provisions of Section 41-3-65.

328 (f) (i) To establish standards for, issue permits and
329 exercise control over, any cafes, restaurants, food or drink
330 stands, sandwich manufacturing establishments, and all other
331 establishments, other than churches, church-related and private
332 schools, and other nonprofit or charitable organizations, where
333 food or drink is regularly prepared, handled and served for pay;
334 and

335 (ii) To require that a permit be obtained from the
336 Department of Health before those persons begin operation. If any
337 such person fails to obtain the permit required in this
338 subparagraph (ii), the State Board of Health, after due notice and
339 opportunity for a hearing, may impose a monetary penalty not to
340 exceed One Thousand Dollars (\$1,000.00) for each violation.
341 However, the department is not authorized to impose a monetary
342 penalty against any person whose gross annual prepared food sales



343 are less than Five Thousand Dollars (\$5,000.00). Money collected
344 by the board under this subparagraph (ii) shall be deposited to
345 the credit of the State General Fund of the State Treasury.

346 (g) To promulgate rules and regulations and exercise
347 control over the production and sale of milk pursuant to the
348 provisions of Sections 75-31-41 through 75-31-49.

349 (h) On presentation of proper authority, to enter into
350 and inspect any public place or building where the State Health
351 Officer or his representative deems it necessary and proper to
352 enter for the discovery and suppression of disease and for the
353 enforcement of any health or sanitary laws and regulations in the
354 state.

355 (i) To conduct investigations, inquiries and hearings,
356 and to issue subpoenas for the attendance of witnesses and the
357 production of books and records at any hearing when authorized and
358 required by statute to be conducted by the State Health Officer or
359 the State Board of Health.

360 (j) To promulgate rules and regulations, and to collect
361 data and information, on (i) the delivery of services through the
362 practice of telemedicine; and (ii) the use of electronic records
363 for the delivery of telemedicine services.

364 (k) To enforce and regulate domestic and imported fish
365 as authorized under Section 69-7-601 et seq.

366 (5) (a) The State Board of Health shall have the authority,
367 in its discretion, to establish programs to promote the public



368 health, to be administered by the State Department of Health.
369 Specifically, those programs may include, but shall not be limited
370 to, programs in the following areas:

- 371 (i) Maternal and child health;
- 372 (ii) Family planning;
- 373 (iii) Pediatric services;
- 374 (iv) Services to crippled and disabled children;
- 375 (v) Control of communicable and noncommunicable
376 disease;
- 377 (vi) Chronic disease;
- 378 (vii) Accidental deaths and injuries;
- 379 (viii) Child care licensure;
- 380 (ix) Radiological health;
- 381 (x) Dental health;
- 382 (xi) Milk sanitation;
- 383 (xii) Occupational safety and health;
- 384 (xiii) Food, vector control and general
385 sanitation;
- 386 (xiv) Protection of drinking water;
- 387 (xv) Sanitation in food handling establishments
388 open to the public;
- 389 (xvi) Registration of births and deaths and other
390 vital events;



391 (xvii) Such public health programs and services as
392 may be assigned to the State Board of Health by the Legislature or
393 by executive order; and

394 (xviii) Regulation of domestic and imported fish
395 for human consumption.

396 (b) The State Board of Health and State Department of
397 Health shall not be authorized to sell, transfer, alienate or
398 otherwise dispose of any of the home health agencies owned and
399 operated by the department on January 1, 1995, and shall not be
400 authorized to sell, transfer, assign, alienate or otherwise
401 dispose of the license of any of those home health agencies,
402 except upon the specific authorization of the Legislature by an
403 amendment to this section. However, this paragraph (b) shall not
404 prevent the board or the department from closing or terminating
405 the operation of any home health agency owned and operated by the
406 department, or closing or terminating any office, branch office or
407 clinic of any such home health agency, or otherwise discontinuing
408 the providing of home health services through any such home health
409 agency, office, branch office or clinic, if the board first
410 demonstrates that there are other providers of home health
411 services in the area being served by the department's home health
412 agency, office, branch office or clinic that will be able to
413 provide adequate home health services to the residents of the area
414 if the department's home health agency, office, branch office or
415 clinic is closed or otherwise discontinues the providing of home



416 health services. This demonstration by the board that there are
417 other providers of adequate home health services in the area shall
418 be spread at length upon the minutes of the board at a regular or
419 special meeting of the board at least thirty (30) days before a
420 home health agency, office, branch office or clinic is proposed to
421 be closed or otherwise discontinue the providing of home health
422 services.

423 (c) The State Department of Health may undertake such
424 technical programs and activities as may be required for the
425 support and operation of those programs, including maintaining
426 physical, chemical, bacteriological and radiological laboratories,
427 and may make such diagnostic tests for diseases and tests for the
428 evaluation of health hazards as may be deemed necessary for the
429 protection of the people of the state.

430 (6) (a) The State Board of Health shall administer the
431 local governments and rural water systems improvements loan
432 program in accordance with the provisions of Section 41-3-16.

433 (b) The State Board of Health shall have authority:

434 (i) To enter into capitalization grant agreements
435 with the United States Environmental Protection Agency, or any
436 successor agency thereto;

437 (ii) To accept capitalization grant awards made
438 under the federal Safe Drinking Water Act, as amended;



439 (iii) To provide annual reports and audits to the
440 United States Environmental Protection Agency, as may be required
441 by federal capitalization grant agreements; and

442 (iv) To establish and collect fees to defray the
443 reasonable costs of administering the revolving fund or emergency
444 fund if the State Board of Health determines that those costs will
445 exceed the limitations established in the federal Safe Drinking
446 Water Act, as amended. The administration fees may be included in
447 loan amounts to loan recipients for the purpose of facilitating
448 payment to the board; however, those fees may not exceed five
449 percent (5%) of the loan amount.

450 (7) Notwithstanding any other provision to the contrary, the
451 State Department of Health shall have the following specific
452 powers: The department shall issue a license to Alexander Milne
453 Home for Women, Inc., a 501(c)(3) nonprofit corporation, for the
454 construction, conversion, expansion and operation of not more than
455 forty-five (45) beds for developmentally disabled adults who have
456 been displaced from New Orleans, Louisiana, with the beds to be
457 located in a certified ICF-MR facility in the City of Laurel,
458 Mississippi. There shall be no prohibition or restrictions on
459 participation in the Medicaid program for the person receiving the
460 license under this subsection (7). The license described in this
461 subsection shall expire five (5) years from the date of its issue.
462 The license authorized by this subsection shall be issued upon the
463 initial payment by the licensee of an application fee of



464 Sixty-seven Thousand Dollars (\$67,000.00) and a monthly fee of
465 Sixty-seven Thousand Dollars (\$67,000.00) after the issuance of
466 the license, to be paid as long as the licensee continues to
467 operate. The initial and monthly licensing fees shall be
468 deposited by the State Department of Health into the special fund
469 created under Section 41-7-188.

470 (8) Notwithstanding any other provision to the contrary, the
471 State Department of Health shall have the following specific
472 powers: The State Department of Health is authorized to issue a
473 license to an existing home health agency for the transfer of a
474 county from that agency to another existing home health agency,
475 and to charge a fee for reviewing and making a determination on
476 the application for such transfer not to exceed one-half (1/2) of
477 the authorized fee assessed for the original application for the
478 home health agency, with the revenue to be deposited by the State
479 Department of Health into the special fund created under Section
480 41-7-188.

481 (9) Notwithstanding any other provision to the contrary, the
482 State Department of Health shall have the following specific
483 powers: For the period beginning July 1, 2010, through July 1,
484 2017, the State Department of Health is authorized and empowered
485 to assess a fee in addition to the fee prescribed in Section
486 41-7-188 for reviewing applications for certificates of need in an
487 amount not to exceed twenty-five one-hundredths of one percent
488 (.25 of 1%) of the amount of a proposed capital expenditure, but



489 shall be not less than Two Hundred Fifty Dollars (\$250.00)
490 regardless of the amount of the proposed capital expenditure, and
491 the maximum additional fee permitted shall not exceed Fifty
492 Thousand Dollars (\$50,000.00). Provided that the total
493 assessments of fees for certificate of need applications under
494 Section 41-7-188 and this section shall not exceed the actual cost
495 of operating the certificate of need program.

496 (10) Notwithstanding any other provision to the contrary,
497 the State Department of Health shall have the following specific
498 powers: The State Department of Health is authorized to extend
499 and renew any certificate of need that has expired, and to charge
500 a fee for reviewing and making a determination on the application
501 for such action not to exceed one-half (1/2) of the authorized fee
502 assessed for the original application for the certificate of need,
503 with the revenue to be deposited by the State Department of Health
504 into the special fund created under Section 41-7-188.

505 (11) Notwithstanding any other provision to the contrary,
506 the State Department of Health shall have the following specific
507 powers: The State Department of Health is authorized and
508 empowered, to revoke, immediately, the license and require closure
509 of any institution for the aged or infirm, including any other
510 remedy less than closure to protect the health and safety of the
511 residents of said institution or the health and safety of the
512 general public.



513 (12) Notwithstanding any other provision to the contrary,
514 the State Department of Health shall have the following specific
515 powers: The State Department of Health is authorized and
516 empowered, to require the temporary detainment of individuals for
517 disease control purposes based upon violation of any order of the
518 State Health Officer, as provided in Section 41-23-5. For the
519 purpose of enforcing such orders of the State Health Officer,
520 persons employed by the department as investigators shall have
521 general arrest powers. All law enforcement officers are
522 authorized and directed to assist in the enforcement of such
523 orders of the State Health Officer.

524 **SECTION 7.** Section 41-3-16, Mississippi Code of 1972, is
525 reenacted as follows:

526 41-3-16. (1) (a) There is established a local governments
527 and rural water systems improvements revolving loan and grant
528 program to be administered by the State Department of Health,
529 referred to in this section as "department," for the purpose of
530 assisting counties, incorporated municipalities, districts or
531 other water organizations that have been granted tax-exempt status
532 under either federal or state law, in making improvements to their
533 water systems, including construction of new water systems or
534 expansion or repair of existing water systems. Loan and grant
535 proceeds may be used by the recipient for planning, professional
536 services, acquisition of interests in land, acquisition of
537 personal property, construction, construction-related services,



538 maintenance, and any other reasonable use which the board, in its
539 discretion, may allow. For purposes of this section, "water
540 systems" has the same meaning as the term "public water system"
541 under Section 41-26-3.

542 (b) (i) There is created a board to be known as the
543 "Local Governments and Rural Water Systems Improvements Board,"
544 referred to in this section as "board," to be composed of the
545 following nine (9) members: the State Health Officer, or his
546 designee, who shall serve as chairman of the board; the Executive
547 Director of the Mississippi Development Authority, or his
548 designee; the Executive Director of the Department of
549 Environmental Quality, or his designee; the Executive Director of
550 the Department of Finance and Administration, or his designee; the
551 Executive Director of the Mississippi Association of Supervisors,
552 or his designee; the Executive Director of the Mississippi
553 Municipal League, or his designee; the Executive Director of the
554 American Council of Engineering Companies of Mississippi, or his
555 designee; the State Director of the United States Department of
556 Agriculture, Rural Development, or his designee; and a manager of
557 a rural water system.

558 The Governor shall appoint a manager of a rural water system
559 from a list of candidates provided by the Executive Director of
560 the Mississippi Rural Water Association. The Executive Director
561 of the Mississippi Rural Water Association shall provide the



562 Governor a list of candidates which shall contain a minimum of
563 three (3) candidates for each appointment.

564 (ii) Nonappointed members of the board may
565 designate another representative of their agency or association to
566 serve as an alternate.

567 (iii) The gubernatorial appointee shall serve a
568 term concurrent with the term of the Governor and until a
569 successor is appointed and qualified. No member, officer or
570 employee of the Board of Directors of the Mississippi Rural Water
571 Association shall be eligible for appointment.

572 (c) The department, if requested by the board, shall
573 furnish the board with facilities and staff as needed to
574 administer this section. The department may contract, upon
575 approval by the board, for those facilities and staff needed to
576 administer this section, including routine management, as it deems
577 necessary. The board may advertise for or solicit proposals from
578 public or private sources, or both, for administration of this
579 section or any services required for administration of this
580 section or any portion thereof. It is the intent of the
581 Legislature that the board endeavor to ensure that the costs of
582 administration of this section are as low as possible in order to
583 provide the water consumers of Mississippi safe drinking water at
584 affordable prices.



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

588 (2) (a) There is created a special fund in the State
589 Treasury to be designated as the "Local Governments and Rural
590 Water Systems Improvements Revolving Loan Fund," referred to in
591 this section as "revolving fund," which fund shall consist of
592 those monies as provided in Sections 6 and 13 of Chapter 521, Laws
593 of 1995. The revolving fund may receive appropriations, bond
594 proceeds, grants, gifts, donations or funds from any source,
595 public or private. Except as otherwise provided in this section,
596 the revolving fund shall be credited with all repayments of
597 principal and interest derived from loans made from the revolving
598 fund. Except as otherwise provided in this section, the monies in
599 the revolving fund may be expended only in amounts appropriated by
600 the Legislature, and the different amounts specifically provided
601 for the loan program and the grant program shall be so designated.
602 Except as otherwise provided in this section, monies in the fund
603 may only be expended for the grant program from the amount
604 designated for such program. The revolving fund shall be
605 maintained in perpetuity for the purposes established in this
606 section and Sections 6 through 20 of Chapter 521, Laws of 1995.
607 Unexpended amounts remaining in the revolving fund at the end of a
608 fiscal year shall not lapse into the State General Fund, and any
609 interest earned on amounts in the revolving fund shall be



610 deposited to the credit of the fund. Monies in the revolving fund
611 may not be used or expended for any purpose except as authorized
612 under this section and Sections 6 through 20 of Chapter 521, Laws
613 of 1995. Any monies in the fund may be used to match any federal
614 funds that are available for the same or related purposes for
615 which funds are used and expended under this section and Sections
616 6 through 20 of Chapter 521, Laws of 1995. Any federal funds
617 shall be used and expended only in accordance with federal laws,
618 rules and regulations governing the expenditure of those funds.
619 No person shall use any monies from the revolving fund for the
620 acquisition of real property or any interest in real property
621 unless that property is integral to the project funded under this
622 section and the purchase is made from a willing seller. No
623 county, incorporated municipality or district shall acquire any
624 real property or any interest in any real property for a project
625 funded through the revolving fund by condemnation. The board's
626 application of Sections 43-37-1 through 43-37-13 shall be no more
627 stringent or extensive in scope, coverage and effect than federal
628 property acquisition laws and regulations.

629 (b) There is created a special fund in the State
630 Treasury to be designated as the "Local Governments and Rural
631 Water Systems Emergency Loan Fund," hereinafter referred to as
632 "emergency fund," which fund shall consist of those monies as
633 provided in Sections 6 and 13 of Chapter 521, Laws of 1995. The
634 emergency fund may receive appropriations, bond proceeds, grants,



635 gifts, donations or funds from any source, public or private.
636 Except as otherwise provided in this section, the emergency fund
637 shall be credited with all repayments of principal and interest
638 derived from loans made from the emergency fund. Except as
639 otherwise provided in this section, the monies in the emergency
640 fund may be expended only in amounts appropriated by the
641 Legislature. The emergency fund shall be maintained in perpetuity
642 for the purposes established in this section and Section 6 of
643 Chapter 521, Laws of 1995. Unexpended amounts remaining in the
644 emergency fund at the end of a fiscal year shall not lapse into
645 the State General Fund. Any interest earned on amounts in the
646 emergency fund shall be deposited to the credit of the fund.
647 Monies in the emergency fund may not be used or expended for any
648 purpose except as authorized under this section and Section 6 of
649 Chapter 521, Laws of 1995.

650 (c) The board created in subsection (1) shall establish
651 loan and grant programs by which loans and grants may be made
652 available to counties, incorporated municipalities, districts or
653 other water organizations that have been granted tax-exempt status
654 under either federal or state law, to assist those counties,
655 incorporated municipalities, districts or water organizations in
656 making water systems improvements, including the construction of
657 new water systems or expansion or repair of existing water
658 systems. Any entity eligible under this section may receive
659 either a loan or a grant, or both. No grant awarded under the



660 program established in this section may be made using funds from
661 the loan program. Grants may be awarded only when the Legislature
662 specifically appropriates funds for that particular purpose. The
663 interest rate on those loans may vary from time to time and from
664 loan to loan, and will be at or below market interest rates as
665 determined by the board. The board shall act as quickly as is
666 practicable and prudent in deciding on any loan request that it
667 receives. Loans from the revolving fund or emergency fund may be
668 made to counties, incorporated municipalities, districts or other
669 water organizations that have been granted tax-exempt status under
670 either federal or state law, as set forth in a loan agreement in
671 amounts not to exceed one hundred percent (100%) of eligible
672 project costs as established by the board. The board may require
673 county, municipal, district or other water organization
674 participation or funding from other sources, or otherwise limit
675 the percentage of costs covered by loans from the revolving fund
676 or the emergency fund. The board may establish a maximum amount
677 for any loan from the revolving fund or emergency fund in order to
678 provide for broad and equitable participation in the programs.

679 (d) A county that receives a loan from the revolving
680 fund or the emergency fund shall pledge for repayment of the loan
681 any part of the homestead exemption annual tax loss reimbursement
682 to which it may be entitled under Section 27-33-77, as may be
683 required to meet the repayment schedule contained in the loan
684 agreement. An incorporated municipality that receives a loan from



685 the revolving fund or the emergency fund shall pledge for
686 repayment of the loan any part of the sales tax revenue
687 distribution to which it may be entitled under Section 27-65-75,
688 as may be required to meet the repayment schedule contained in the
689 loan agreement. All recipients of such loans shall establish a
690 dedicated source of revenue for repayment of the loan. Before any
691 county or incorporated municipality shall receive any loan, it
692 shall have executed with the Department of Revenue and the board a
693 loan agreement evidencing that loan. The loan agreement shall not
694 be construed to prohibit any recipient from prepaying any part or
695 all of the funds received. The repayment schedule in each loan
696 agreement shall provide for (i) monthly payments, (ii) semiannual
697 payments, or (iii) other periodic payments, the annual total of
698 which shall not exceed the annual total for any other year of the
699 loan by more than fifteen percent (15%). Except as otherwise
700 provided in subsection (4) of this section, the loan agreement
701 shall provide for the repayment of all funds received from the
702 revolving fund within not more than fifteen (15) years or a term
703 as otherwise allowed by the federal Safe Drinking Water Act, and
704 all funds received from the emergency fund within not more than
705 five (5) years from the date of project completion, and any
706 repayment shall commence not later than one (1) year after project
707 completion. The Department of Revenue shall withhold semiannually
708 from counties and monthly from incorporated municipalities from



709 the amount to be remitted to the county or municipality, a sum
710 equal to the next repayment as provided in the loan agreement.

711 (e) Any county, incorporated municipality, district or
712 other water organization desiring to construct a project approved
713 by the board which receives a loan from the state for that purpose
714 but which is not eligible to pledge for repayment under the
715 provisions of paragraph (d) of this subsection shall repay that
716 loan by making payments each month to the State Treasurer through
717 the Department of Finance and Administration for and on behalf of
718 the board according to Section 7-7-15, to be credited to either
719 the revolving fund or the emergency fund, whichever is
720 appropriate, in lieu of pledging homestead exemption annual tax
721 loss reimbursement or sales tax revenue distribution.

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

725 (f) Any district created pursuant to Sections 19-5-151
726 through 19-5-207 that receives a loan from the revolving fund or
727 the emergency fund shall pledge for repayment of the loan any part
728 of the revenues received by that district pursuant to Sections
729 19-5-151 through 19-5-207, as may be required to meet the
730 repayment schedule contained in the loan agreement.

731 (g) The State Auditor, upon request of the board, shall
732 audit the receipts and expenditures of a county, an incorporated
733 municipality, district or other water organization whose loan



734 repayments appear to be in arrears, and if the Auditor finds that
735 the county, incorporated municipality, district or other water
736 organization is in arrears in those repayments, the Auditor shall
737 immediately notify the chairman of the board who may take any
738 action as may be necessary to enforce the terms of the loan
739 agreement, including liquidation and enforcement of the security
740 given for repayment of the loan, and the Executive Director of the
741 Department of Finance and Administration who shall withhold all
742 future payments to the county of homestead exemption annual tax
743 loss reimbursements under Section 27-33-77 and all sums allocated
744 to the county or the incorporated municipality under Section
745 27-65-75 until such time as the county or the incorporated
746 municipality is again current in its loan repayments as certified
747 by the board.

748 (h) Except as otherwise provided in this section, all
749 monies deposited in the revolving fund or the emergency fund,
750 including loan repayments and interest earned on those repayments,
751 shall be used only for providing loans or other financial
752 assistance to water systems as the board deems appropriate. In
753 addition, any amounts in the revolving fund or the emergency fund
754 may be used to defray the reasonable costs of administering the
755 revolving fund or the emergency fund and conducting activities
756 under this section and Sections 6 through 20 of Chapter 521, Laws
757 of 1995, subject to any limitations established in the federal
758 Safe Drinking Water Act, as amended and subject to annual



759 appropriation by the Legislature. The department is authorized,
760 upon approval by the board, to use amounts available to it from
761 the revolving fund or the emergency fund to contract for those
762 facilities and staff needed to administer and provide routine
763 management for the funds and loan program. However,
764 notwithstanding any other provision of law to the contrary, all or
765 any portion of repayments of principal and interest derived from
766 the fund uses described in this section may be designated or
767 pledged for repayment of a loan as provided for in Section
768 31-25-28 in connection with a loan from the Mississippi
769 Development Bank.

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

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

777 (b) To promulgate rules and regulations, to make
778 variances and exceptions thereto, and to establish procedures in
779 accordance with this section and Sections 6 through 20 of Chapter
780 521, Laws of 1995, for the implementation of the local governments
781 and rural water systems improvements revolving loan program;

782 (c) To require, at the board's discretion, any loan or
783 grant recipient to impose a per connection fee or surcharge or



784 amended water rate schedule or tariff on each customer or any
785 class of customers, benefiting from an improvement financed by a
786 loan or grant made under this section, for repayment of any loan
787 funds provided under this section and Sections 6 through 20 of
788 Chapter 521, Laws of 1995. The board may require any loan or
789 grant recipient to undergo a water system viability analysis and
790 may require a loan or grant recipient to implement any result of
791 the viability analysis. If the loan recipient fails to implement
792 any result of a viability analysis as required by the board, the
793 board may impose a monetary penalty or increase the interest rate
794 on the loan, or both. If the grant recipient fails to implement
795 any result of a viability analysis as required by the board, the
796 board may impose a monetary penalty on the grant;

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

801 (e) To requisition monies in the Local Governments and
802 Rural Water Systems Improvements Revolving Loan Fund and the Local
803 Governments and Rural Water Systems Emergency Loan Fund and
804 distribute those monies on a project-by-project basis in
805 accordance with this section;

806 (f) To ensure that the funds made available under this
807 section and Sections 6 through 20 of Chapter 521, Laws of 1995, to
808 a county, an incorporated municipality, a district or a water



809 organization that has been granted tax-exempt status under either
810 federal or state law provide for a distribution of projects and
811 funds among the entities under a priority system established by
812 the board;

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

819 (h) To establish policies, procedures and requirements
820 concerning viability and financial capability to repay loans that
821 may be used in approving loans available under this section,
822 including a requirement that all loan recipients have a rate
823 structure which will be sufficient to cover the costs of
824 operation, maintenance, major equipment replacement and repayment
825 of any loans made under this section; and

826 (i) To file annually with the Legislature a report
827 detailing how monies in the Local Governments and Rural Water
828 Systems Improvements Revolving Loan Fund and the Local Governments
829 and Rural Water Systems Emergency Loan Fund were spent during the
830 preceding fiscal year in each county, incorporated municipality,
831 district or other water organization, the number of projects
832 approved and constructed, and the cost of each project.



833 For efficient and effective administration of the loan
834 program, revolving fund and emergency fund, the board may
835 authorize the department or the State Health Officer to carry out
836 any or all of the powers and duties enumerated above.

837 (4) The board may, on a case-by-case basis and to the extent
838 allowed by federal law, renegotiate the payment of principal and
839 interest on loans made under this section to the six (6) most
840 southern counties of the state covered by the Presidential
841 Declaration of Major Disaster for the State of Mississippi
842 (FEMA-1604-DR) dated August 29, 2005, and to incorporated
843 municipalities, districts or other water organizations located in
844 such counties; however, the interest on the loans shall not be
845 forgiven for a period of more than twenty-four (24) months and the
846 maturity of the loans shall not be extended for a period of more
847 than forty-eight (48) months.

848 **SECTION 8.** Section 41-3-17, Mississippi Code of 1972, is
849 reenacted as follows:

850 41-3-17. The State Board of Health is authorized to make and
851 publish all reasonable rules and regulations necessary to enable
852 it to discharge its duties and powers and to carry out the
853 purposes and objectives of its creation. It is further authorized
854 to make reasonable sanitary rules and regulations, to be enforced
855 in the several counties by the county health officer under the
856 supervision and control of the State Board of Health. The State
857 Board of Health shall not make or enforce any rule or regulation



858 that prohibits consumers from providing their own containers for
859 the purpose of purchasing or accepting water from any vending
860 machine or device which filters or treats water that has already
861 been tested and determined to meet or exceed the minimum health
862 protection standards prescribed for drinking water under the
863 Mississippi Safe Drinking Water Law, if that vending machine or
864 device meets or exceeds United States Environmental Protection
865 Agency or national automatic merchandising standards.

866 **SECTION 9.** Section 41-3-18, Mississippi Code of 1972, is
867 reenacted as follows:

868 41-3-18. (1) The board shall assess fees in the following
869 amounts and for the following purposes:

870 (a) Food establishment annual permit fee, based on the
871 assessment factors of the establishment as follows:

872	Assessment Category 1.....	\$ 30.00
873	Assessment Category 2.....	100.00
874	Assessment Category 3.....	150.00
875	Assessment Category 4.....	200.00

876 (b) Private water supply approval fee.....\$ 10.00

877 The board may develop such reasonable standards, rules and
878 regulations to clearly define each assessment category.

879 Assessment categories shall be based upon the factors to the
880 public health implications of the category and type of food
881 preparation being utilized by the food establishment, utilizing



882 the model Food Code of 1995, or as may be amended by the federal
883 Food and Drug Administration.

884 Any increase in the fees charged by the board under this
885 subsection shall be in accordance with the provisions of Section
886 41-3-65.

887 (2) The fee authorized under subsection (1)(a) of this
888 section shall not be assessed for:

889 (a) Food establishments operated by public schools,
890 public junior and community colleges, or state agencies or
891 institutions, including, without limitation, the state
892 institutions of higher learning and the State Penitentiary; and

893 (b) Persons who make infrequent casual sales of honey
894 and who pack or sell less than five hundred (500) gallons of honey
895 per year, and those persons shall not be inspected by the State
896 Department of Health unless requested by the producer.

897 (3) The fee authorized under subsection (1)(b) of this
898 section shall not be assessed for private water supplies used by
899 foster homes licensed by the Department of Child Protection
900 Services.

901 **SECTION 10.** Section 41-3-19, Mississippi Code of 1972, is
902 reenacted as follows:

903 41-3-19. It is the duty of the State Board of Health to make
904 a report, in writing, to the Governor, on or before the first day
905 of December next preceding each session, not an extraordinary
906 session of the Legislature, upon the sanitary condition, prospect,



907 and needs of the state, setting forth the action of said board, of
908 its officers and agents, the names thereof, and all its
909 expenditures since the last preceding report, and such other
910 matters as it may deem proper for the promotion of health or the
911 prevention of disease. The report shall be laid before the
912 Legislature by the Governor at its ensuing term.

913 **SECTION 11.** Section 41-3-20, Mississippi Code of 1972, is
914 amended as follows:

915 41-3-20. Sections 41-3-1.1, 41-3-3, 41-3-4, 41-3-5.1,
916 41-3-6, 41-3-15, 41-3-16, 41-3-17, 41-3-18 and 41-3-19, which
917 create the State Board of Health, establish the position of
918 Executive Officer of the State Department of Health and establish
919 the State Department of Health and prescribe its powers and
920 duties, shall stand repealed on July 1, * * * 2027.

921 **SECTION 12.** This act shall take effect and be in force from
922 and after July 1, 2024.

