

By: Representatives White, Oliver, Boyd
(19th)

To: Appropriations A

HOUSE BILL NO. 1460
(As Passed the House)

1 AN ACT TO BRING FORWARD SECTION 49-2-131, MISSISSIPPI CODE OF
2 1972, WHICH CREATED THE MISSISSIPPI MUNICIPALITY AND COUNTY WATER
3 INFRASTRUCTURE GRANT PROGRAM, FOR THE PURPOSE OF POSSIBLE
4 AMENDMENT; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 49-2-131, Mississippi Code of 1972, is
7 brought forward as follows:

8 49-2-131. (1) This section shall be known and may be cited
9 as the "Mississippi Municipality and County Water Infrastructure
10 Grant Program Act of 2022."

11 (2) There is hereby established within the Mississippi
12 Department of Environmental Quality the Mississippi Municipality
13 and County Water Infrastructure (MCWI) Grant Program under which
14 municipalities, counties and certain public utilities not
15 regulated by the Public Service Commission may apply until
16 February 1, 2023, for reimbursable grants to make necessary
17 investments in water, wastewater, and stormwater infrastructure to
18 be funded by the Legislature utilizing Coronavirus State Fiscal
19 Recovery Funds made available under the federal American Rescue



20 Plan Act of 2021 (ARPA). Such grants shall be made available to
21 municipalities and counties to be matched with the Coronavirus
22 Local Fiscal Recovery Funds awarded or to be awarded to them under
23 ARPA on a one-to-one matching basis. Coronavirus Local Fiscal
24 Recovery Funds that a county transfers to a municipality or that a
25 county or municipality transfers to a public utility not regulated
26 by the Public Service Commission are eligible on a one-to-one
27 matching basis. Municipalities that received less than One
28 Million Dollars (\$1,000,000.00) in the total allocation of
29 Coronavirus Local Fiscal Recovery Funds are eligible for a
30 two-to-one match only on the Coronavirus Local Fiscal Recovery
31 Funds awarded or to be awarded to them under ARPA. The
32 Mississippi Department of Environmental Quality shall only accept
33 two (2) rounds of submissions under the Mississippi Municipality
34 and County Water Infrastructure (MCWI) Grant Program. The second
35 round of submissions shall be the final round. The dollar amount
36 for professional fees that can be allocated as a part of a
37 county's, municipality's or public utility's matching share is not
38 to exceed four percent (4%) of the total project cost.

39 (3) For purposes of this section, unless the context
40 requires otherwise, the following terms shall have the meanings
41 ascribed herein:

42 (a) "MCWI Grant Program" means the Mississippi
43 Municipality and County Water Infrastructure Grant Program.



44 (b) "ARPA" means the federal American Rescue Plan Act
45 of 2021, Public Law 117-2, which amends Title VI of the Social
46 Security Act.

47 (c) "State Recovery Funds" means Coronavirus State
48 Fiscal Recovery Funds awarded through Section 602 of Title VI of
49 the Social Security Act amended by Section 9901 of the federal
50 American Rescue Plan Act of 2021, Public Law 117-2.

51 (d) "Local Recovery Funds" means Coronavirus Local
52 Fiscal Recovery Funds awarded through Section 603 of Title VI of
53 the Social Security Act amended by Section 9901 of the federal
54 American Rescue Plan Act of 2021, Public Law 117-2.

55 (e) "Department" means the Department of Environmental
56 Quality.

57 (f) "Professional fees" means fees for the services of
58 attorneys and engineering, surveying, and environmental studies.

59 (g) "Project" means the infrastructure improvements
60 defined in an application that (i) complies with all requirements
61 of ARPA, and (ii) is eligible for a grant award under this
62 section.

63 (4) (a) On or before July 1, 2022, the Department of
64 Environmental Quality shall promulgate rules and regulations
65 necessary to administer the MCWI Grant Program prescribed under
66 this section, including application procedures and deadlines. The
67 department is exempt from compliance with the Mississippi



68 Administrative Procedures Law in fulfilling the requirements of
69 this section.

70 (b) The Department of Health shall advise the
71 Mississippi Department of Environmental Quality regarding all such
72 rules and regulations as related to the federal Safe Drinking
73 Water Act.

74 (5) Funding under the MCWI Grant Program shall be allocated
75 to projects certified by the Mississippi Department of
76 Environmental Quality as eligible for federal funding, including,
77 but not be limited to, the following:

78 (a) Construction of publicly owned treatment works;

79 (b) Projects pursuant to the implementation of a
80 nonpoint source pollution management program established under the
81 Clean Water Act (CWA);

82 (c) Decentralized wastewater treatment systems that
83 treat municipal wastewater or domestic sewage;

84 (d) Management and treatment of stormwater or
85 subsurface drainage water;

86 (e) Water conservation, efficiency, or reuse measures;

87 (f) Development and implementation of a conservation
88 and management plan under the CWA;

89 (g) Watershed projects meeting the criteria set forth
90 in the CWA;

91 (h) Energy consumption reduction for publicly owned
92 treatment works;



93 (i) Reuse or recycling of wastewater, stormwater, or
94 subsurface drainage water;

95 (j) Facilities to improve drinking water quality;

96 (k) Transmission and distribution, including
97 improvements of water pressure or prevention of contamination in
98 infrastructure and lead service line replacements;

99 (l) New sources to replace contaminated drinking water
100 or increase drought resilience, including aquifer storage and
101 recovery system for water storage;

102 (m) Storage of drinking water, such as to prevent
103 contaminants or equalize water demands;

104 (n) Purchase of water systems and interconnection of
105 systems;

106 (o) New community water systems;

107 (p) Culvert repair, resizing, and removal, replacement
108 of storm sewers, and additional types of stormwater
109 infrastructure;

110 (q) Dam and reservoir rehabilitation, if the primary
111 purpose of dam or reservoir is for drinking water supply and
112 project is necessary for the provision of drinking water;

113 (r) Broad set of lead remediation projects eligible
114 under EPA grant programs authorized by the Water Infrastructure
115 Improvements for the Nation (WIIN) Act; and

116 (s) Any eligible drinking water, wastewater or
117 stormwater project through ARPA guidelines, guidance, rules,



118 regulations and other criteria, as may be amended from time to
119 time, by the United States Department of the Treasury.

120 (6) The governing authority of a municipality, county or
121 public utility that is not regulated by the Public Service
122 Commission may submit an application for grant funds under this
123 section if the applicant is an operator-member of Mississippi 811,
124 Inc., as defined in Section 77-13-3. Applicants shall certify to
125 the department that each expenditure of the funds awarded to them
126 under this section is in compliance with ARPA guidelines,
127 guidance, rules, regulations and other criteria, as may be amended
128 from time to time, by the United States Department of the Treasury
129 regarding the use of monies from the State Coronavirus State
130 Fiscal Recovery Funds. Subsequent submissions will be due by the
131 dates established by the department.

132 (7) An application for a grant under this section shall be
133 submitted at such time, be in such form, and contain such
134 information as the department prescribes. Each application for
135 grant funds shall include the following at a minimum: (a)
136 applicant contact information; (b) project description and type of
137 project; (c) project map; (d) estimate of population affected by
138 the project; (e) disadvantaged community criteria (population,
139 median household income, unemployment, current water/sewer rates);
140 (f) estimated project cost; (g) list of match funds of direct
141 Coronavirus Local Fiscal Recovery Funds received and to be
142 received from the federal government, a certification that such



143 funds have been or will be used for the project detailed in the
144 application, and documentation of commitment; (h) estimated
145 project schedule and readiness to proceed; (i) engineering
146 services agreement; (j) engineering reports; and (k) information
147 about status of obtaining any required permits.

148 (8) The department must apply a system for use in ranking
149 the grant applications received, unless the Legislature funds all
150 eligible grant requests under the program. When applying the
151 ranking system, the department shall apply a greater weight to
152 projects that have approved engineering/design, plans and permits
153 if the department has deemed the project is ready to begin
154 construction within six (6) months. Projects that are included on
155 the municipal or county engineer's approved list and provide
156 applicable supporting documentation shall receive additional
157 consideration awarded to the application. The ranking system
158 shall include the following factors, at a minimum: (a) the
159 environmental impact of the proposed project; (b) the proposed
160 project's ability to address noncompliance with state/federal
161 requirements; (c) the extent to which the project promotes
162 economic development; (d) the number of people served by the
163 project and the number of communities the project serves; (e)
164 impacts of the proposed project on disadvantaged/overburdened
165 communities; (f) the grant applicant's prior efforts to secure
166 funding to address the proposed project's objectives; (g) the
167 grant applicant's proposed contribution of other funds or in-kind



168 cost-sharing to the proposed project; (h) the grant applicant's
169 long-term plans for the financial and physical operation and
170 maintenance of the project; (i) the grant applicant's capacity to
171 initiate construction in a timely manner and complete the proposed
172 project by the deadline specified by the United States Department
173 of Treasury rules for ARPA funds; (j) the extent to which the
174 project benefits multiple political subdivisions in a regional
175 manner; (k) the project's ability to enhance public service
176 infrastructure, including transportation and emergency access; and
177 (l) any other factors as determined by the department.

178 (9) The grant program shall include a specific emphasis on
179 addressing the needs of an economically disadvantaged community,
180 including providing safe, reliable drinking water in areas that
181 lack infrastructure, providing sewage treatment capacity in
182 unsewered areas and providing regional development of
183 infrastructure to serve multiple communities.

184 (10) Applications shall be reviewed and scored as they are
185 received, unless the Legislature funds all eligible grant requests
186 under the program. The Mississippi Department of Environmental
187 Quality shall certify whether each project submitted is a
188 "necessary investment" in water, wastewater, or stormwater
189 infrastructure as defined in the American Rescue Plan Act and all
190 applicable guidance issued by the United States Department of the
191 Treasury. The Department of Environmental Quality shall review
192 the lists of recommended water infrastructure projects and issue



193 its list of recommended projects to the Mississippi Department of
194 Health for its advice. Grant agreements shall be executed between
195 the recipient and the Mississippi Department of Environmental
196 Quality. All final awards shall be determined at the discretion
197 of the executive director of the department. Any funds awarded to
198 the City of Jackson under this section shall be deposited in the
199 Capital City Water/Sewer Projects Fund of the State Treasury.
200 Funds shall be obligated to a grantee upon the execution of a
201 grant agreement between the department and the approved applicant.
202 Funds shall be made available to a grantee when the department
203 obtains the necessary support for reimbursement. The department
204 is authorized to conduct additional rounds of grants as needed;
205 however, in the first round no more than forty percent (40%) of
206 the total funds appropriated for each grant program may be awarded
207 by the department, and the remaining funds may be awarded in the
208 final round which shall occur no later than six (6) months from
209 the previous round. To ensure equitable treatment between the
210 categories of projects, no less than twenty percent (20%) awarded
211 under this section shall be allocated to each of the three (3)
212 categories of drinking water projects, wastewater projects and
213 stormwater projects. In the final round, any funds not requested
214 may be allocated to any category.

215 (11) Grant funds shall be used prospectively; however, grant
216 funds may be used to reimburse expenses incurred before the
217 enactment of this program if the costs are adequately documented



218 and comply with applicable ARPA guidelines. An applicant must
219 agree to obtain all necessary state and federal permits and follow
220 all state bidding and contracting laws and fiscally sound
221 practices in the administration of the funds.

222 (12) (a) Monies must be disbursed under this section in
223 compliance with the guidelines, guidance, rules, regulations or
224 other criteria, as may be amended from time to time, of the United
225 States Department of the Treasury regarding the use of monies from
226 the Coronavirus State Fiscal Recovery Fund, established by the
227 American Rescue Plan of 2021.

228 (b) The use of funds allocated under this program shall
229 be subject to audit by the United States Department of the
230 Treasury's Office of Inspector General and the Mississippi Office
231 of the State Auditor. Each person receiving funds under these
232 programs found to be fully or partially noncompliant with the
233 requirements in this section shall return to the state all or a
234 portion of the funds received.

235 (13) The department shall submit to the Lieutenant Governor,
236 Speaker of the House, House and Senate Appropriations Chairmen,
237 and the Legislative Budget Office quarterly reports and annual
238 reports that are due by the dates established in the Compliance
239 and Reporting Guidance by the United States Department of
240 Treasury. The reports shall contain the applications received,
241 the score of the applications, the amount of grant funds awarded
242 to each applicant, the amount of grant funds expended by each



243 applicant, and status of each applicant's project. The score of
244 the applications is not required if the award was provided in the
245 final round of grants and the Legislature provided the total
246 amount of funds for all eligible grant requests.

247 (14) Grant funds shall be available under this section
248 through December 31, 2026, or on the date of the fund expenditure
249 deadline provided by the federal government, whichever occurs
250 later. Each grant recipient shall certify for any project for
251 which a grant is awarded that if the project is not completed by
252 December 31, 2026, and the United States Congress does not enact
253 an extension of the deadline on the availability of ARPA funds,
254 then the grant recipient will complete the project through other
255 funds.

256 (15) The Mississippi Department of Environmental Quality may
257 retain an amount not to exceed five percent (5%) of the total
258 funds allocated to the program to defray administrative costs.

259 (16) The department shall be exempt from provisions of the
260 Public Procurement Review Board for any requirements of personal
261 or professional service contracts or the pre-approval of the
262 solicitation for such contracts used in the execution of its
263 responsibilities under this section. This subsection shall stand
264 repealed on January 1, 2026.

265 (17) The provisions of this section shall stand repealed on
266 January 1, 2027.



267 **SECTION 2.** This act shall take effect and be in force from
268 and after July 1, 2024, and shall stand repealed on June 30, 2024.

