

Chapter No. 494

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## *HOUSE BILL NO. 1715*

Originated in House Don Richardson Clerk

HOUSE BILL NO. 1715

AN ACT TO AMEND SECTION 31-25-28, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO BORROW MONEY FROM THE MISSISSIPPI DEVELOPMENT BANK FOR THE PURPOSE OF PROVIDING FUNDS FOR LOAN PROGRAMS ADMINISTERED BY SUCH AGENCY; TO PROVIDE THAT THE DEPARTMENT OF ENVIRONMENTAL QUALITY MAY PLEDGE FUNDS RECEIVED BY IT AS LOAN REPAYMENTS UNDER SUCH A LOAN PROGRAM TO REPAY ANY LOAN MADE BY THE MISSISSIPPI DEVELOPMENT BANK TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY; TO AUTHORIZE THE STATE DEPARTMENT OF HEALTH TO BORROW MONEY FROM THE MISSISSIPPI DEVELOPMENT BANK FOR THE PURPOSE OF PROVIDING FUNDS FOR LOAN PROGRAMS ADMINISTERED BY SUCH AGENCY; TO PROVIDE THAT THE STATE DEPARTMENT OF HEALTH MAY PLEDGE FUNDS RECEIVED BY IT AS LOAN REPAYMENTS UNDER SUCH A LOAN PROGRAM TO REPAY ANY LOAN MADE BY THE MISSISSIPPI DEVELOPMENT BANK TO THE STATE DEPARTMENT OF HEALTH; TO EXEMPT LOANS MADE BY THE MISSISSIPPI DEVELOPMENT BANK UNDER THIS ACT FROM CERTAIN CRITERIA REQUIRED FOR OTHER LOANS MADE BY THE BANK TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY OR THE DEPARTMENT OF HEALTH; TO AMEND SECTIONS 31-25-27 AND 41-3-16, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

**SECTION 1.** Section 31-25-28, Mississippi Code of 1972, is amended as follows:

31-25-28. (1) Local governmental units may borrow money or receive grants from the bank for any of the purposes set forth in this section or Section 31-25-20(g) and pay to the bank such fees and charges for services as the bank may prescribe. Whenever any such loan is made to a local governmental unit, such local governmental unit may use available revenues for the repayment of the principal of, premium, if any, and interest on such loan, and pledge such available revenues or monies for the repayment of the principal of, premium, if any, and interest on such loan. It is the intention of the Legislature that any such pledge of revenues or other monies shall be valid and binding from the date the

pledge is made; that such revenues or other monies so pledged and thereafter received by the local governmental unit shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the local governmental unit irrespective of whether such parties have notice thereof; and neither the resolutions, contracts or any other instrument by which a pledge is created need be recorded.

(2) Local governmental units may contract with the bank with respect to any such loan and such contract shall contain such terms and conditions as may be prescribed by the bank.

(3) Local governmental units may in connection with any such loan enter into any covenants and agreements with respect to such local governmental unit's operations, revenues, assets, monies, funds or property, or such loan, as may be prescribed by the bank.

(4) Upon the making of any such loan by the bank to any local governmental unit, such local governmental unit shall be held and be deemed to have agreed that if such governmental unit fails to pay the principal of, premium, if any, and interest on any such loan as when due and payable, such governmental unit shall have waived any and all defenses to such nonpayment, and the bank, upon such nonpayment, shall thereupon avail itself of all remedies, rights and provisions of law applicable in such circumstance, including without limitation, any remedies or rights theretofore agreed to by the local governmental unit, and that such loan shall for all of the purposes of this section, be held and be deemed to have become due and payable and to be unpaid. The bank may carry out the provisions of this section and exercise all of the rights and remedies and provisions of law provided or referred to in this section and of all other applicable laws of the state.

(5) Any local governmental unit that borrows from the bank under this section may agree in writing with the bank that, as provided in this subsection, the State Tax Commission or any state agency, department or commission created pursuant to state law shall (a) withhold all or any part (as agreed by the local governmental unit) of any monies that such local governmental unit is entitled to receive from time to time pursuant to any law and that is in the possession of the State Tax Commission or any state agency, department or commission created pursuant to state law and (b) pay the same over to the bank to satisfy any delinquent payments on any such loan made to such local governmental unit under the provisions of this section and any other delinquent payments due and owing the bank by such local governmental unit, all as the same shall occur. If the bank files a copy of such written agreement, together with a statement of delinquency, with the State Tax Commission or any state agency, department or commission created pursuant to state law, then the State Tax Commission or any state agency, department or commission created pursuant to state law shall immediately make the withholdings provided in such agreement from the amounts due the local governmental unit and shall continue to pay the same over to the bank until all such delinquencies are satisfied.

(6) Before authorizing any loan for any of the purposes enumerated in Section 31-25-20(e), the governing authority of the local governmental unit shall adopt a resolution declaring its intention so to do, stating the amount of the loan proposed to be authorized and the purpose for which the loan is to be authorized, and the date upon which the loan will be authorized. Such resolution shall be published once a week for at least three (3) consecutive weeks in at least one (1) newspaper published in such local governmental unit. The first publication of such resolution shall be made not less than twenty-one (21) days before the date fixed in such resolution for the authorization of the loan and the

last publication shall be made not more than seven (7) days before such date. If no newspaper is published in such local governmental unit, then such notice shall be given by publishing the resolution for the required time in some newspaper having a general circulation in such local governmental unit and, in addition, by posting a copy of such resolution for at least twenty-one (21) days next preceding the date fixed therein at three (3) public places in such local governmental unit. If fifteen percent (15%) of the qualified electors of the local governmental unit or fifteen hundred (1500), whichever is the lesser, file a written protest against the authorization of such loan on or before the date specified in such resolution, then an election on the question of the authorization of such loan shall be called and held as otherwise provided for in connection with the issuance of general obligation indebtedness of such local governmental unit. Notice of such election shall be given as otherwise required in connection with the issuance of general obligation indebtedness of such local governmental unit. If three-fifths (3/5) of the qualified electors voting in the election vote in favor of authorizing the loan, then the governing authority of the local governmental unit shall proceed with the loan; however, if less than three-fifths (3/5) of the qualified electors voting in the election vote in favor of authorizing the loan, then the loan shall not be incurred. If no protest be filed, then such loan may be entered into by the local governmental unit without an election on the question of the authorization of such loan, at any time within a period of two (2) years after the date specified in the resolution. However, the governing authority of any local governmental unit in its discretion may nevertheless call an election on such question, in which event it shall not be necessary to publish the resolution declaring its intention to authorize such loan as provided in this subsection.

(7) (a) The Department of Environmental Quality may borrow money from the bank for any purpose as otherwise authorized by this act or for the purpose of funding loan programs (including revolving loan programs) for the Department of Environmental Quality, or both. The Department of Environmental Quality may contract with the bank with respect to any loan from the bank to fund such loan programs and the loan from the bank may include any terms and conditions as provided for in this section. If the Department of Environmental Quality borrows funds pursuant to this subsection (7), then the Department of Environmental Quality shall certify the following to the bank prior to making the loan from the bank:

(i) The revolving loan program or other program to be funded through the issuance of the bonds;

(ii) Available revenues which the Department of Environmental Quality intends to use to repay the loan; and

(iii) That the Department of Environmental Quality does not intend to request an additional appropriation from the Legislature to pay debt service on the loan from the bank or for such security.

(b) If the Department of Environmental Quality meets the requirements of paragraph (a) of this subsection (7), then the Department of Environmental Quality shall not be required to meet the requirements of Section 31-25-27(14). Notwithstanding any other provision of law, including any limitations or restrictions under Section 49-17-81 et seq., the Department of Environmental Quality may designate or pledge any funds, revenues or any other amounts received under its loan programs designated under paragraph (a)(i) of this subsection (7) to repay a loan from the bank under this subsection (7). Funds, revenues or any other amounts received under a loan program as provided under this subsection (7) specifically include, but are not limited to, any principal and/or interest loan repayments from any participant

under the program, any investment earnings, or other amounts held by the Department of Environmental Quality in connection with the applicable loan program. Any loan program of the Department of Environmental Quality otherwise authorized by law shall be deemed to be a public purpose for purposes of this act which the bank may loan funds under the provisions of this act.

(c) In connection with a loan under this subsection (7), the bank may administer and manage loan programs as provided in the contracts with the bank to loan funds thereunder.

(d) The maximum amount that the Department of Environmental Quality may borrow under this subsection (7) shall not exceed Eighty Million Dollars (\$80,000,000.00) in the aggregate.

(e) This subsection (7) shall stand repealed on July 1, 2014.

(8) In connection with any refunding of the Ten Million Five Hundred Seventy Thousand Dollars (\$10,570,000.00), State of Mississippi, Department of Rehabilitation Services, Certificates of Participation (State of Mississippi, Department of Rehabilitation Services Project) dated August 1, 1993, the bank may issue its bonds to provide for such refunding and the Department of Rehabilitation Services may borrow money from the bank for the purpose of providing for the refunding of such Certificates of Participation. The Department of Rehabilitation Services may contract with the bank with respect to any loan from the bank under this subsection (8), to provide for the refunding of such Certificates of Participation and such loan from the bank may include any terms and conditions as provided for in this section. In connection with the refunding of the Certificates of Participation pursuant to this subsection (8), such refunding shall result in an overall net present value savings to maturity of not less than two percent (2%) of the Certificates of Participation being refunded. In connection with any loan under

this subsection (8), the Department of Rehabilitation Services shall not be required to meet the requirements of Section 31-25-27(14).

(9) (a) The State Department of Health may borrow money from the bank for any purpose as otherwise authorized by this act or for the purpose of funding loan programs (including revolving loan programs) for the State Department of Health, or both. The State Department of Health may contract with the bank with respect to any loan from the bank to fund loan programs and the loan from the bank may include any terms and conditions as provided for in this section. If the State Department of Health borrows funds pursuant to this subsection (9), then the State Department of Health shall certify the following to the bank prior to making the loan from the bank:

(i) The revolving loan program or other program to be funded through the issuance of the bonds;

(ii) Available revenues which the State Department of Health intends to use to repay the loan; and

(iii) That the State Department of Health does not intend to request an additional appropriation from the Legislature to pay debt service on the loan from the bank or for such security.

(b) If the State Department of Health meets the requirements of paragraph (a) of this subsection (9), then the State Department of Health shall not be required to meet the requirements of Section 31-25-27(14). Notwithstanding any other provision of law, including any limitations or restrictions under Section 41-3-16 et seq., the State Department of Health may designate or pledge any funds, revenues or any other amounts received under its loan programs designated under paragraph (a)(i) of this subsection (9) to repay a loan from the bank under this subsection (9). Funds, revenues or any other amounts received under a loan program as provided under this subsection (9)

specifically include, but are not limited to, any principal and/or interest loan repayments from any participant under the program, any investment earnings, or other amounts held by the State Department of Health in connection with the applicable loan program. Any loan program of the State Department of Health otherwise authorized by law shall be deemed to be a public purpose for purposes of this act which the bank may loan funds under the provisions of this act.

(c) In connection with a loan under this subsection (9), the bank may administer and manage loan programs as provided in the contracts with the bank to loan funds thereunder.

(d) The maximum amount that the State Department of Health may borrow under this subsection (9) shall not exceed Eighty Million Dollars (\$80,000,000.00) in the aggregate.

(e) This subsection (9) shall stand repealed on July 1, 2014.

(10) This section shall be deemed to provide an additional, alternative and complete method for the doing of the things authorized by this section and shall be deemed and construed to be supplemental to any power conferred by other laws on local governmental units and not in derogation of any such powers. Any loan made pursuant to the provisions of this section shall not constitute an indebtedness of the local governmental unit within the meaning of any constitutional or statutory limitation or restriction. In connection with a loan under this chapter, a local governmental unit shall not be required to comply with the provisions of any other law except as provided in this section.

**SECTION 2.** Section 31-25-27, Mississippi Code of 1972, is amended as follows:

31-25-27. (1) Each local governmental unit is hereby authorized and empowered to contract with the bank with respect to the bank's purchase of such local governmental unit's securities and such contract shall contain such terms and conditions as may

be prescribed by the bank. Each local governmental unit is authorized and empowered to pay to the bank such fees and charges for services as the bank may prescribe.

(2) Each local governmental unit is hereby authorized to issue securities under the provisions of this act and to sell such securities to the bank to raise money for any purpose or purposes set forth in Sections 21-27-23, 21-33-301, 21-33-325, 21-33-325.1, 21-33-326, 31-27-5, 17-17-301 et seq. and any other state law authorizing the issuance of local governmental unit debt, and for the purpose of refunding any securities issued under the provisions of this act or under the provisions of Section 21-27-11 et seq., or Section 21-33-301 et seq., or Section 31-27-1 et seq. Such securities may be issued in accordance with Sections 21-33-301, 21-33-303, 21-33-307, 21-33-309, 21-33-311, 21-33-313, 21-33-325, 21-33-325.1 and 21-33-326, or Sections 21-27-23 through 21-27-43 and Sections 21-27-47 through 21-27-71, or Sections 31-27-1 through 31-27-25, or Sections 17-5-3 through 17-5-11, or Sections 49-17-101 through 49-17-123, or Sections 17-17-301 through 17-17-349 or any other state law authorizing issuance of local governmental unit debt, as the case may be, unless otherwise specifically provided in this act; provided, however, the securities of any local governmental unit may be issued with such terms and provisions as may be necessary and appropriate in order to comply with the provisions of any loan agreement described in Section 49-17-87. Whenever securities shall be issued under this subsection, the governing authority may also pledge to the payment of principal of, premium, if any, and interest on such securities the revenues of any project to be constructed, improved or purchased with the proceeds thereof. Whenever any project is a part of a system or combined system, then all or any portion of the revenues of such system or combined system may be pledged to secure repayment of such securities as determined by the bank.

(3) Each local governmental unit is hereby authorized to issue securities to the bank to raise money for any purpose or purposes set forth in Section 19-9-1, 19-9-27 or 19-9-28 and for the purpose of refunding any securities issued under the provisions of this act or under the provisions of Section 19-9-1 et seq. Such securities may be issued in accordance with Sections 19-9-1, 19-9-3, 19-9-5, 19-9-7, 19-9-9, 19-9-11, 19-9-13, 19-9-15, 19-9-17, 19-9-27 and 19-9-28, or Sections 17-5-3 through 17-5-11, or Sections 49-17-101 through 49-17-123, as the case may be, unless otherwise specifically provided in this act; provided, however, the securities of any local governmental unit may be issued with such terms and provisions as may be necessary and appropriate in order to comply with the provisions of any loan agreement described in Section 49-17-87. Whenever securities shall be issued under this subsection, the board of supervisors of the county may also pledge to the payment of principal of, premium, if any, and interest on such securities the revenues of any project to be constructed, improved, repaired or purchased with the proceeds thereof. Whenever any project is a part of a system or combined system, then all or any portion of the revenues of such system or combined system may be pledged to secure repayment of such securities as determined by the bank.

(4) In addition, any local governmental unit is hereby authorized to issue securities to the bank to raise money for any purpose or purposes otherwise authorized by state law and for the purpose of refunding any securities issued under the provisions of this act or as otherwise authorized by state law including Section 49-17-83 et seq. Such securities may be issued in accordance with any other applicable provision of state law related to the issuance of securities including Section 49-17-83 et seq. Whenever securities shall be issued under this subsection, the governing body of such local governmental unit may also pledge to the payment of principal of, premium, if any, and interest on such

securities the revenues of any project to be constructed, improved or purchased with the proceeds thereof. Whenever any project is a part of a system or combined system, then all or any portion of the revenues of such system or combined system may be pledged to secure repayment of such securities as determined by the bank.

(5) Securities issued by a local governmental unit under the provisions of this act:

(a) May be sold only to the bank at private sale and may be sold at such price or prices, in such manner and at such times as may be agreed to by the bank and the local governmental unit, and the governing body of the local governmental unit may pay all expenses, premiums, fees and commissions which it may deem necessary and advantageous in connection with the issuance and sale thereof;

(b) Shall be secured as provided by Chapter 27, Title 21, Mississippi Code of 1972; Chapter 33, Title 21, Mississippi Code of 1972; or Chapter 9, Title 19, Mississippi Code of 1972, or other provisions of state law, and as provided in this act; and it is the intention of the Legislature that any pledge of earnings, revenues or other monies made by the local governmental unit shall be valid and binding from the time the pledge is made; that the earnings, revenues or other monies so pledged and thereafter received by the local governmental unit shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the local governmental unit irrespective of whether such parties have notice thereof; and neither the resolution nor any other instrument by which a pledge is created need be recorded;

(c) Neither the officers or members of the governing body of the local governmental unit nor any person executing the bonds shall be personally liable on the bonds or be subject to any

personal liability or accountability by reason of the issuance thereof;

(d) Shall be issued for the purposes set forth in this act and shall include terms and conditions which meet the state law authorizing the issuance of such local governmental unit debt and/or such terms and conditions consistent with the requirements for issuance of Mississippi Development Bank Bonds under Section 31-25-37.

(6) Each local governmental unit issuing securities under the provisions of this act is hereby authorized and empowered in connection with the issuance of such securities to enter into any covenants, agreements as to defaults and agreements as to remedies of the bank for defaults with respect to such local governmental unit's operation, revenues, assets, monies, funds or property as may be prescribed by the bank.

(7) The proceeds of securities shall be deposited in one or more special funds established by resolution of the local governmental unit issuing the same and shall be applied to the following: (a) the purpose for which the securities were issued; (b) the payment of all costs of issuance of the securities; (c) the payments of any fees and charges established by the bank; (d) the payment of interest on the securities for a period of time not greater than the period of time estimated to be required to complete the purpose for which the securities were issued; all to the extent provided by resolution of the governing body of the local governmental unit and approved by the bank. Such special fund shall be held by commercial banks qualified to act as depositories therefor.

(8) In the event the bank determines to issue bonds and in connection therewith to exercise the powers provided in subsection (7) of Section 31-25-37, and if the requirements of subsection (2), (3) or (4),    as the case may be, of this section have been

satisfied, a local governmental unit is authorized to issue its securities as provided in this section.

(9) Securities issued under this act may be validated in the manner and with the force and effect provided in Section 31-13-1 et seq.

(10) This act shall be deemed to provide an additional, alternative and complete method for the doing of the things authorized hereby and shall be deemed and construed to be supplemental to any power conferred by other laws on local governmental units and not in derogation of any such powers.

(11) Any person who attempts to or obtains financial aid for a local governmental unit hereunder or who attempts to or sells securities of a governmental unit to the bank by false or misleading information or who shall by fraud attempt to obtain monies from the bank or its approval for the payment of monies or shall fraudulently attempt to or does prevent the collection of any monies due to the bank shall, upon conviction, be guilty of a felony for each offense.

(12) Upon the sale and issuance of any securities to the bank by any governmental unit, such governmental unit shall be held and be deemed to have agreed that in the event of the failure of such governmental unit to pay the interest on or the principal of any of such securities owned or held by the bank as and when due and payable, such governmental unit shall have waived any and all defenses to such nonpayment, and the bank upon such nonpayment shall thereupon constitute a holder or owner of such securities as being in default, and the bank may then and thereupon avail itself of all remedies, rights and provisions of law applicable in such circumstance, including, without limitation, any remedies or rights theretofore agreed to by the local governmental unit, and that all of the securities of the issue of securities of such governmental unit as to which there has been such nonpayment, shall for all of the purposes of this section be held and be

deemed to have become due and payable and to be unpaid. The bank is hereby authorized and empowered to carry out the provisions of this section and to exercise all of the rights and remedies and provisions of law herein provided or referred to.

(13) Any local governmental unit which borrows from the bank is hereby authorized and empowered to agree in writing with the bank that, as provided in this subsection, the State Tax Commission or any state agency, department or commission created pursuant to state law shall (a) withhold all or any part (as agreed by the local governmental unit) of any monies which such local governmental unit is entitled to receive from time to time pursuant to any law and which is in the possession of the State Tax Commission, or any state agency, department or commission created pursuant to state law and (b) pay the same over to the bank to satisfy any delinquent payments on any securities issued by such local governmental unit under the provisions of this act and any other delinquent payments due and owing the bank by such local governmental unit, all as the same shall occur. In the event the bank shall file a copy of such written agreement, together with a statement of delinquency, with the State Tax Commission, or any state agency, department or commission created pursuant to state law then the State Tax Commission or any state agency, department or commission created pursuant to state law shall immediately make the withholdings provided in such agreement from the amounts due the local governmental unit and shall continue to pay the same over to the bank until all such delinquencies are satisfied.

(14) (a) Except as otherwise provided in Section 31-25-28 (7), (8) and (9), if the state or any agency thereof, the institutions of higher learning of the state or any education building corporation established for institutions of higher learning, borrows funds from the bank under Section 31-25-28 or sells its securities to the bank pursuant to this act, then such

local governmental unit shall certify the following to the bank prior to the issuance of bonds:

(i) The legal authority for such local governmental unit to borrow funds; and

(ii) That such local governmental unit does not intend to request an additional appropriation from the Legislature to pay debt service on the loan or for such security.

(b) If the state or any agency thereof, the institutions of higher learning of the state or any education building corporation established for institutions of higher learning, does not make the certification required under paragraph (a)(ii) of this subsection, then such local governmental unit shall not borrow funds from the bank under Section 31-25-28 or sell its securities to the bank pursuant to this act unless an appropriation by the Legislature authorizes the payment of debt service for the first year of the loan or for such security.

(15) Any local governmental unit may borrow money from the bank loaned under any loan guaranty program of any department or agency of the United States, including the United States Department of Agriculture Rural Utility Services Water and Waste Disposal Guaranteed Loan Program and Community Programs Guaranteed Loan Program or any such successor guaranty programs.

(16) Notwithstanding any law to the contrary, each local governmental unit is authorized and empowered to contract with the bank for the exercise by the bank of any and all of the bank's powers as set out in this act with respect to the proceeds of such local governmental unit's securities or certificates of participation issued by such local governmental unit pursuant to any state law authorizing the issuance of local governmental unit debt.

(17) Subsections (15) and (16) of this section shall be deemed to provide all necessary authority for the doing of the

things authorized thereby and shall be liberally construed to accomplish the purposes and authorizations therein stated.

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

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

(b) (i) There is created a board to be known as the "Local Governments and Rural Water Systems Improvements Board," referred to in this section as "board," to be composed of the following nine (9) members: the State Health Officer, or his designee, who shall serve as chairman of the board; the Executive Director of the Mississippi Development Authority, or his designee; the Executive Director of the Department of Environmental Quality, or his designee; the Executive Director of the Department of Finance and Administration, or his designee; the Executive Director of the Mississippi Association of Supervisors, or his designee; the Executive Director of the Mississippi Municipal League, or his designee; the Executive Director of the American Council of Engineering Companies of Mississippi, or his

designee; the State Director of the United States Department of Agriculture, Rural Development, or his designee; and a manager of a rural water system.

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

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

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

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

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

(2) (a) There is created a special fund in the State Treasury to be designated as the "Local Governments and Rural Water Systems Improvements Revolving Loan Fund," referred to in this section as "revolving fund," which fund shall consist of those monies as provided in Sections 6 and 13 of Chapter 521, Laws of 1995. The revolving fund may receive appropriations, bond proceeds, grants, gifts, donations or funds from any source, public or private. Except as otherwise provided in this section, the revolving fund shall be credited with all repayments of principal and interest derived from loans made from the revolving fund. Except as otherwise provided in this section, the monies in the revolving fund may be expended only in amounts appropriated by the Legislature, and the different amounts specifically provided for the loan program and the grant program shall be so designated. Except as otherwise provided in this section, monies in the fund may only be expended for the grant program from the amount designated for such program. The revolving fund shall be maintained in perpetuity for the purposes established in this section and Sections 6 through 20 of Chapter 521, Laws of 1995. Unexpended amounts remaining in the revolving fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned on amounts in the revolving fund shall be deposited to the credit of the fund. Monies in the revolving fund may not be used or expended for any purpose except as authorized under this section and Sections 6 through 20 of Chapter 521, Laws of 1995. Any monies in the fund may be used to match any federal funds that are available for the same or related purposes for which funds are used and expended under this section and Sections 6 through 20 of Chapter 521, Laws of 1995. Any federal funds shall be used and expended only in accordance with federal laws, rules and regulations governing the expenditure of those funds. No person shall use any monies from the revolving fund for the acquisition of real property or any interest in real property

unless that property is integral to the project funded under this section and the purchase is made from a willing seller. No county, incorporated municipality or district shall acquire any real property or any interest in any real property for a project funded through the revolving fund by condemnation. The board's application of Sections 43-37-1 through 43-37-13 shall be no more stringent or extensive in scope, coverage and effect than federal property acquisition laws and regulations.

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

(c) The board created in subsection (1) shall establish loan and grant programs by which loans and grants may be made available to counties, incorporated municipalities, districts or other water organizations that have been granted tax exempt status

under either federal or state law, to assist those counties, incorporated municipalities, districts or water organizations in making water systems improvements, including the construction of new water systems or expansion or repair of existing water systems. Any entity eligible under this section may receive either a loan or a grant, or both. No grant awarded under the program established in this section may be made using funds from the loan program. Grants may be awarded only when the Legislature specifically appropriates funds for that particular purpose. The interest rate on those loans may vary from time to time and from loan to loan, and will be at or below market interest rates as determined by the board. The board shall act as quickly as is practicable and prudent in deciding on any loan request that it receives. Loans from the revolving fund or emergency fund may be made to counties, incorporated municipalities, districts or other water organizations that have been granted tax exempt status under either federal or state law, as set forth in a loan agreement in amounts not to exceed one hundred percent (100%) of eligible project costs as established by the board. The board may require county, municipal, district or other water organization participation or funding from other sources, or otherwise limit the percentage of costs covered by loans from the revolving fund or the emergency fund. The board may establish a maximum amount for any loan from the revolving fund or emergency fund in order to provide for broad and equitable participation in the programs.

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

distribution to which it may be entitled under Section 27-65-75, as may be required to meet the repayment schedule contained in the loan agreement. All recipients of such loans shall establish a dedicated source of revenue for repayment of the loan. Before any county or incorporated municipality shall receive any loan, it shall have executed with the State Tax Commission and the board a loan agreement evidencing that loan. The loan agreement shall not be construed to prohibit any recipient from prepaying any part or all of the funds received. The repayment schedule in each loan agreement shall provide for (i) monthly payments, (ii) semiannual payments or (iii) other periodic payments, the annual total of which shall not exceed the annual total for any other year of the loan by more than fifteen percent (15%). Except as otherwise provided in subsection (4) of this section, the loan agreement shall provide for the repayment of all funds received from the revolving fund within not more than fifteen (15) years or a term as otherwise allowed by the federal Safe Drinking Water Act, and all funds received from the emergency fund within not more than five (5) years from the date of project completion, and any repayment shall commence not later than one (1) year after project completion. The State Tax Commission shall withhold semiannually from counties and monthly from incorporated municipalities from the amount to be remitted to the county or municipality, a sum equal to the next repayment as provided in the loan agreement.

(e) Any county, incorporated municipality, district or other water organization desiring to construct a project approved by the board which receives a loan from the state for that purpose but which is not eligible to pledge for repayment under the provisions of paragraph (d) of this subsection, shall repay that loan by making payments each month to the State Treasurer through the Department of Finance and Administration for and on behalf of the board according to Section 7-7-15, to be credited to either the revolving fund or the emergency fund, whichever is

appropriate, in lieu of pledging homestead exemption annual tax loss reimbursement or sales tax revenue distribution.

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

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

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

(h) Except as otherwise provided in this section, all monies deposited in the revolving fund or the emergency fund, including loan repayments and interest earned on those repayments, shall be used only for providing loans or other financial assistance to water systems as the board deems appropriate. In

addition, any amounts in the revolving fund or the emergency fund may be used to defray the reasonable costs of administering the revolving fund or the emergency fund and conducting activities under this section and Sections 6 through 20 of Chapter 521, Laws of 1995, subject to any limitations established in the federal Safe Drinking Water Act, as amended and subject to annual appropriation by the Legislature. The department is authorized, upon approval by the board, to use amounts available to it from the revolving fund or the emergency fund to contract for those facilities and staff needed to administer and provide routine management for the funds and loan program. However, notwithstanding any other provision of law to the contrary, all or any portion of repayments of principal and interest derived from the fund uses described in this section may be designated or pledged for repayment of a loan as provided for in Section 31-25-28 in connection with a loan from the Mississippi Development Bank.

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

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

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

(c) To require, at the board's discretion, any loan or grant recipient to impose a per connection fee or surcharge or amended water rate schedule or tariff on each customer or any class of customers, benefiting from an improvement financed by a

loan or grant made under this section, for repayment of any loan funds provided under this section and Sections 6 through 20 of Chapter 521, Laws of 1995. The board may require any loan or grant recipient to undergo a water system viability analysis and may require a loan or grant recipient to implement any result of the viability analysis. If the loan recipient fails to implement any result of a viability analysis as required by the board, the board may impose a monetary penalty or increase the interest rate on the loan, or both. If the grant recipient fails to implement any result of a viability analysis as required by the board, the board may impose a monetary penalty on the grant;

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

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

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

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

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

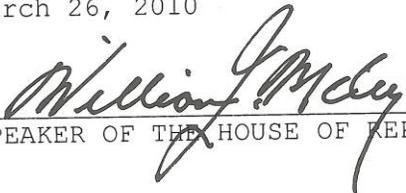
(i) To file annually with the Legislature a report detailing how monies in the Local Governments and Rural Water Systems Improvements Revolving Loan Fund and the Local Governments and Rural Water Systems Emergency Loan Fund were spent during the preceding fiscal year in each county, incorporated municipality,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

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

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

**SECTION 4.** This act shall take effect and be in force from and after its passage.

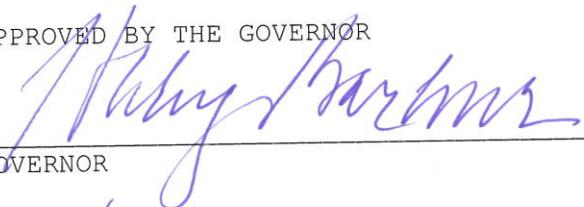
PASSED BY THE HOUSE OF REPRESENTATIVES  
March 26, 2010

  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE  
March 25, 2010

  
PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR

  
GOVERNOR

4/7/10

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