

By: Huggins

To: Public Health and
Welfare;
Appropriations

SENATE BILL NO. 3110

1 AN ACT TO AMEND SECTIONS 41-73-3, 41-73-5, 41-73-17, AND
2 41-73-27, MISSISSIPPI CODE OF 1972, AND TO CODIFY SECTION
3 41-73-70, MISSISSIPPI CODE OF 1972, TO ESTABLISH AN ESSENTIAL
4 SERVICE PROVIDER ASSISTANCE PROGRAM FOR RURAL HOSPITALS WITHIN THE
5 MISSISSIPPI HOSPITAL EQUIPMENT AND FACILITIES AUTHORITY ACT, TO
6 PROVIDE DEFINITIONS, TO DIRECT THE TRANSFER OF HEALTH CARE
7 EXPENDABLE FUNDS FROM THE TOBACCO LITIGATION INTO AN ACCOUNT TO
8 FUND THE ESSENTIAL SERVICE PROVIDER ASSISTANCE PROGRAM AND TO
9 PROVIDE FOR THE ADMINISTRATION OF THE PROGRAM; AND FOR RELATED
10 PURPOSES.

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

12 SECTION 1. Section 41-73-3, Mississippi Code of 1972, is
13 amended as follows:[RDD1]

14 41-73-3. The Legislature hereby finds and declares that:

15 (1) Delivery of quality health care in Mississippi has in
16 recent years become increasingly dependent upon sophisticated
17 equipment and adequate, modern facilities at a time when the
18 acquisition and financing of such equipment and facilities by
19 health care providers has become increasingly expensive.

20 (2) It is necessary that Mississippi hospitals be able to
21 obtain the modern equipment and facilities needed to meet the
22 needs of their medical staffs and to improve the quality of
23 medical care provided to Mississippi citizens.

24 (3) The increased costs of acquiring and financing modern
25 equipment and facilities by Mississippi hospitals is necessarily
26 passed to the patients receiving medical care from the hospitals,
27 resulting in higher medical bills and increased health insurance
28 premiums.

29 (4) These increased costs discourage Mississippi citizens
30 from obtaining necessary medical care.

31 (5) The problems set forth above cannot be remedied solely
32 through the operation of private enterprise or efforts by
33 individual communities, but can be alleviated through the creation
34 of a public body corporate and politic, separate and apart from
35 the State of Mississippi, constituting a governmental
36 instrumentality, to be known as the Mississippi Hospital Equipment
37 and Facilities Authority, to encourage the investment of private
38 capital in Mississippi hospitals through the use of public
39 financing as provided in this act for the purpose of financing
40 hospital equipment and hospital facilities at interest rates lower
41 than those available in the conventional credit markets.

42 (6) Alleviating the conditions and problems set forth above
43 by the encouragement of private investment through a governmental
44 body is a public purpose and use for which public money provided
45 by the sale of revenue bonds may be borrowed, expended, advanced,
46 loaned and granted and is hereby so declared to be such public
47 purpose as a matter of express legislative determination. Such
48 activities shall not be conducted for profit.

49 (7) Because essential service providers are located in rural
50 areas and in areas within the state that are largely populated by
51 persons who are Medicaid recipients or are uninsured or
52 underinsured, they are often unable to financially afford to
53 acquire and finance modern equipment and facilities or to
54 accomplish necessary renovations of their existing facilities even
55 at interest rates lower than those available in the conventional
56 credit markets. Alleviating the condition and problem of the
57 essential service provider set forth in this subsection (7) by
58 providing essential service providers grants from the Health Care
59 Expendable Fund created by Section 43-13-407 is hereby declared to
60 be a public purpose as a matter of express legislative
61 determination and an appropriate use of the funds of the Health
62 Care Expendable Fund as set forth in Section 43-13-407(4). Such
63 activities shall not be conducted for profit.

64 SECTION 2. Section 41-73-5, Mississippi Code of 1972, is
65 amended as follows:[RDD2]

66 41-73-5. When used in this act, unless the context requires
67 a different definition, the following terms shall have the
68 following meanings:

69 (a) "Act" means the Mississippi Hospital Equipment and
70 Facilities Authority Act.

71 (b) "Authority" means the Mississippi Hospital
72 Equipment and Facilities Authority created by this act and any
73 successor to its functions.

74 (c) "Bonds" means bonds, notes or other evidences of
75 indebtedness of the authority issued pursuant to this act,
76 including refunding bonds.

77 (d) "Cost" as applied to hospital equipment means any
78 and all costs of such hospital equipment and, without limiting the
79 generality of the foregoing, shall include the following:

80 (i) All costs of the acquisition, repair,
81 restoration, reconditioning, refinancing or installation of any
82 such hospital equipment and all costs incident or related thereto;

83 (ii) The cost of any property interest in such
84 hospital equipment including an option to purchase or leasehold
85 interest;

86 (iii) The cost of architectural, engineering,
87 legal and related services; the cost of the preparation of plans,
88 specifications, studies, surveys and estimates of cost and of
89 revenue; and all other expenses necessary or incident to planning,
90 providing or determining the need for or the feasibility and
91 practicability of such hospital equipment; and the cost of
92 providing or establishing a reasonable reserve fund for the
93 payment of principal and interest on bonds;

94 (iv) The cost of financing charges, including
95 premiums or prepayment penalties, if any, and interest accrued
96 prior to the acquisition and installation or refinancing of such

97 hospital equipment and after such acquisition and installation or
98 refinancing and start-up costs related to hospital equipment;

99 (v) Any and all costs paid or incurred in
100 connection with the financing of such hospital equipment,
101 including out-of-pocket expenses, the cost of financing, legal,
102 accounting, financial advisory and consulting fees, expenses and
103 disbursements; the cost of any policy of insurance; the cost of
104 printing, engraving and reproduction services; and the cost of the
105 initial or acceptance fee of any trustee or paying agent;

106 (vi) All direct or indirect costs of the authority
107 incurred in connection with providing such hospital equipment,
108 including, without limitation, reasonable sums to reimburse the
109 authority for time spent by its agents or employees with respect
110 to providing such hospital equipment and the financing thereof;
111 and

112 (vii) Any and all costs paid or incurred for the
113 administration of any program for the purchase or lease of or the
114 making of loans for hospital equipment, by the authority and any
115 program for the sale or lease of or the making of loans for such
116 hospital equipment to any participating hospital institution.

117 (e) "Cost," as applied to hospital facilities, means
118 any and all costs of such hospital facilities and, without
119 limiting the generality of the foregoing, shall include the
120 following:

121 (i) All costs of the establishment, demolition,
122 site development of new and rehabilitated buildings,
123 rehabilitation, reconstruction repair, erection, building,
124 construction, remodeling, adding to and furnishing of any such
125 hospital facilities and all costs incident or related thereto;

126 (ii) The cost of acquiring any property interest
127 in such hospital facilities including the purchase thereof, the
128 cost of an option to purchase or the cost of any leasehold
129 interest;

130 (iii) The cost of architectural, engineering,
131 legal and related services; the cost of the preparation of plans,
132 specifications, studies, surveys and estimates of cost and of
133 revenue; all other expenses necessary or incident to planning,
134 providing or determining the need for or the feasibility and
135 practicability of such hospital facilities or the acquisition
136 thereof; and the cost of providing or establishing a reasonable
137 reserve fund for the payment of principal of and interest on
138 bonds;

139 (iv) The cost of financing charges, including
140 premiums or prepayment penalties, if any, and interest accrued
141 prior to the acquisition and completion or refinancing of such
142 hospital facilities and after such acquisition and completion or
143 refinancing and start-up costs related to hospital facilities;

144 (v) Any and all costs paid or incurred in
145 connection with the financing of such hospital facilities,
146 including out-of-pocket expenses, the cost of financing, legal,
147 accounting, financial advisory and consulting fees, expenses and
148 disbursement; the cost of any policy of insurance; the cost of
149 printing, engraving and reproduction services; and the cost of the
150 initial or acceptance fee of any trustee or paying agent;

151 (vi) All direct or indirect costs of the authority
152 incurred in connection with providing such hospital facilities,
153 including, without limitation, reasonable sums to reimburse the
154 authority for time spent by its agents or employees with respect
155 to providing such hospital facilities and the financing thereof;

156 (vii) Any and all costs paid or incurred for the
157 administration of any program for the purchase or lease of or the
158 making of loans for hospital facilities, by the authority and any
159 program for the sale or lease of or the making of loans for such
160 hospital facilities to any participating hospital institution; and

161 (viii) The cost of providing for the payment or
162 the making provision for the payment of, by the appropriate

163 escrowing of monies or securities, the principal of and interest
164 on which when due will be adequate to make such payment, any
165 indebtedness encumbering the revenues or property of a
166 participating hospital institution, whether such payment is to be
167 effected by redemption of such indebtedness prior to maturity or
168 not.

169 (f) "Essential service hospital" means any hospital in
170 the State of Mississippi:

171 (i) Located in a rural area;

172 (ii) That has an average daily census of less than
173 fifty (50);

174 (iii) For which at least seventy percent (70%) of
175 its revenues are attributable to patients entitled to Medicare
176 and/or Medicaid benefits and to self-pay patients;

177 (iv) Located in a county where the per capita
178 income is no more than Nine Thousand Five Hundred Dollars
179 (\$9,500.00) per year according to the 1990 census records;

180 (v) That is one (1) of ten (10) largest employers
181 in the community in which it is located;

182 (vi) That provides an essential service to a local
183 population by being the only source of emergency or primary
184 in-patient acute health care in the community in which it is
185 located; and

186 (vii) That has an average case-mix index no higher
187 than one and one thousand seven hundred fifty ten-thousandths
188 (1.1750).

189 (g) "Essential service physician" means any physician
190 practicing in the State of Mississippi:

191 (i) Who holds a valid and unrestricted license to
192 practice medicine or osteopathy in the State of Mississippi and is
193 practicing medicine or osteopathy on a full-time basis in the
194 State of Mississippi;

195 (ii) Who is conducting at least seventy percent

196 (70%) of his or her medical or osteopathic practice within five
197 (5) miles of an essential service hospital; and

198 (iii) For whom at least seventy percent (70%) of
199 his or her revenues derived from his or her medical or osteopathic
200 practice are attributable to patients entitled to Medicare and/or
201 Medicaid benefits and to self-pay patients.

202 (h) "Essential service provider" means an essential
203 service hospital or an essential services physician.

204 (i) "Hospital equipment" means any personal property
205 which is found and determined by the authority to be required or
206 necessary or helpful for medical care, research, training or
207 teaching, any one (1) or all, in hospital facilities located in
208 the state, irrespective of whether such property is in existence
209 at the time of, or is to be provided after the making of, such
210 finding. Provided further, that major medical equipment as
211 defined in Section 41-7-173(n), shall require a certificate of
212 need prior to the approval of the authority to contract with said
213 hospital.

214 (j) "Hospital facility" or "hospital facilities" means
215 buildings and structures of any and all types used or useful, in
216 the discretion of the authority, for providing any types of care
217 to the sick, wounded, infirmed, needy, mentally incompetent or
218 elderly and shall include, without limiting the generality of the
219 foregoing, out-patient clinics, laboratories, laundries, nurses',
220 doctors' or interns' residences, administration buildings, office
221 buildings, facilities for research directly involved with hospital
222 care, maintenance, storage or utility facilities, parking lots,
223 and garages and all necessary, useful, or related furnishings, and
224 appurtenances and all lands necessary or convenient as a site for
225 the foregoing.

226 (k) "Participating hospital institution" or "hospital
227 institution" means a public or private corporation, association,
228 foundation, trust, cooperative, agency, body politic, or other

229 person or organization which provides or operates or proposes to
230 provide or operate hospital facilities not for profit, and which,
231 pursuant to the provisions of this act, contracts with the
232 authority for the financing or refinancing of the lease or other
233 acquisition of hospital equipment or hospital facilities, or both.

234 (l) "Rural area" means an area within the State of
235 Mississippi that is located outside of a standard metropolitan
236 statistical area as designated by Medicare.

237 (m) "State" means the State of Mississippi.

238 The use of singular terms herein shall also include the
239 plural of such term and the use of a plural term herein shall also
240 include the singular of such term unless the context clearly
241 requires a different connotation.

242 SECTION 3. Section 41-73-17, Mississippi Code of 1972, is
243 amended as follows:[RDD3]

244 41-73-17. The members of the authority may appoint an
245 executive director and/or a secretary who shall be employees of
246 the authority, but not members thereof, and who shall serve at the
247 pleasure of the members and receive such compensation as shall be
248 fixed by the members. The executive director, if appointed, shall
249 attend the meetings of the members of the authority and shall
250 administer, manage and direct the affairs and activities of the
251 authority in accordance with the policies and under the control
252 and direction of the members. The executive director shall
253 approve all accounts for salaries, allowable expenses of the
254 authority or of any employee or consultant thereof, and expenses
255 incidental to the operation of the authority. He shall perform
256 such other duties as may be directed by the members in carrying
257 out the purposes of this chapter. The practices and procedures
258 regarding administrative functions and responsibilities of the
259 authority shall be subject to the approval and review of the
260 Director of the State Bond Advisory Division of the Governor's
261 office. In lieu of or in addition to the appointment of an

262 executive director, the authority may contract with the State Bond
263 Advisory Division of the Governor's office to carry out in whole
264 or in part the administrative functions and responsibilities of
265 the authority, but may only pay the actual expenses incurred by
266 such division in performing such functions and responsibilities.
267 The expenses incurred by the authority in contracting for such
268 administrative functions and responsibilities shall be paid by the
269 authority as a qualified cost pursuant to Section 41-73-5(d)(vii)
270 or 41-73-5(e)(vii).

271 The secretary shall attend the meetings of the members of the
272 authority, shall keep a record of the proceedings of the
273 authority, and shall maintain and be custodian of all books,
274 documents and papers filed with the authority, the minute book or
275 journal of the authority, and its official seal. He may cause
276 copies to be made of all minutes and other records and documents
277 of the authority and may give certificates under seal of the
278 authority to the effect that such copies are true copies, and all
279 persons dealing with the authority may rely upon such
280 certificates. If an executive director and/or secretary are not
281 appointed, the members of the authority may designate from among
282 themselves or the authority's employees the person or persons
283 responsible for carrying out the duties set out in this section.

284 SECTION 4. Section 41-73-27, Mississippi Code of 1972, is
285 amended as follows:[RDD4]

286 41-73-27. The authority is hereby granted all powers
287 necessary or appropriate to carry out and effectuate its public
288 and corporate purposes, including but not limited to the
289 following:

290 (a) To have perpetual succession as a body politic and
291 corporate and an independent instrumentality exercising essential
292 public functions;

293 (b) To adopt, amend and repeal bylaws, rules and
294 regulations, not inconsistent with this act, to regulate its

295 affairs and to carry into effect the powers and purposes of the
296 authority and conduct its business;

297 (c) To sue and be sued in its own name;

298 (d) To have an official seal and alter it at will;

299 (e) To maintain an office at such place or places
300 within the state as it may designate;

301 (f) To monitor on a continuing basis the need for
302 hospital equipment financing and hospital facilities financing at
303 interest rates which are consistent with the needs of hospital
304 institutions;

305 (g) To make and execute contracts and all other
306 instruments necessary or convenient for the performance of its
307 duties and the exercise of its powers and functions under this
308 act;

309 (h) To employ architects, engineers, attorneys,
310 inspectors, accountants and health care experts and financial
311 advisors, and such other advisors, consultants and agents as may
312 be necessary in its judgment, and to fix their compensation;

313 (i) To procure insurance against any loss in connection
314 with its property and other assets, in such amounts and from such
315 insurers as it may deem advisable, including the power to pay
316 premiums on any such insurance;

317 (j) To procure insurance or guarantees from any public
318 or private entities, including any department, agency or
319 instrumentality of the United States of America, to secure payment
320 (i) on a loan, lease or purchase payment owed by a participating
321 hospital institution to the authority and (ii) of any bonds issued
322 by the authority, including the power to pay premiums on any such
323 insurance or guarantee;

324 (k) To procure letters of credit from any national or
325 state banking association or other entity authorized to issue a
326 letter of credit to secure the payment of any bonds issued by the
327 authority or to secure the payment of any loan, lease or purchase

328 payment owed by a participating hospital institution to the
329 authority, including the power to pay the cost of obtaining such
330 letter of credit;

331 (l) To receive and accept from any source aid or
332 contributions of money, property, labor or other things of value
333 to be held, used and applied to carry out the purposes of this act
334 subject to the conditions upon which the grants or contributions
335 are made, including but not limited to gifts or grants from any
336 department, agency or instrumentality of the United States of
337 America for any purpose consistent with the provisions of this
338 act;

339 (m) To provide, or cause to be provided by a
340 participating hospital institution, by acquisition, lease,
341 fabrication, repair, restoration, reconditioning, refinancing or
342 installation, one or more hospital facilities located within the
343 state or items of hospital equipment to be located within a
344 hospital facility in the state;

345 (n) To lease as lessor any hospital facility or any
346 item of hospital equipment for such rentals and upon such terms
347 and conditions as the authority may deem advisable and as are not
348 in conflict with the provisions of this act;

349 (o) To sell for installment payments or otherwise, to
350 option or contract for such sale, and to convey all or any part of
351 any hospital facility or any item of hospital equipment for such
352 price and upon such terms and conditions as the authority may deem
353 advisable and as are not in conflict with the provisions of this
354 act;

355 (p) To make contracts and incur liabilities, borrow
356 money at such rates of interest as the authority may determine,
357 issue its bonds in accordance with the provisions of this act, and
358 secure any of its bonds or obligations by mortgage or pledge of
359 all or any of its property, franchises and income or as otherwise
360 provided in this act;

361 (q) To make secured or unsecured loans for the purpose
362 of providing temporary or permanent financing or refinancing for
363 the cost of any hospital facility or item of hospital equipment,
364 including the retiring of any outstanding obligations with respect
365 to such hospital facility or hospital equipment, and the
366 reimbursement for the cost of any hospital facility or hospital
367 equipment, purchased within two (2) years immediately preceding
368 the date of the bond issue, made or given by any participating
369 hospital institution for the cost of any hospital facility,
370 hospital equipment, and to charge and collect interest on such
371 loans for such loan payments and upon such terms and conditions as
372 the authority may deem advisable and as are not in conflict with
373 the provisions of this act;

374 (r) To invest and reinvest its funds and to take and
375 hold property as security for the investment of such funds as
376 provided in this act;

377 (s) To purchase, receive, lease (as lessee or lessor),
378 or otherwise acquire, own, hold, improve, use or otherwise deal in
379 and with, hospital facilities and equipment, or any interest
380 therein, wherever situated, as the purposes of the authority shall
381 require;

382 (t) To sell, convey, mortgage, pledge, assign, lease,
383 exchange, transfer and otherwise dispose of all or any part of its
384 property and assets;

385 (u) To the extent permitted under its contract with the
386 holders of bonds of the authority, consent to any modification
387 with respect to the rate of interest, time and payment of any
388 installment of principal or interest, or any other term of any
389 contract, loan, loan note, loan note commitment, contract, lease
390 or agreement of any kind to which the authority is a party; * * *

391 (v) To assist participating hospital institutions to
392 obtain funds for any purpose by utilizing the value of the
393 receivables of such participating hospital institutions through

394 the making of loans secured by such receivables, by purchasing
395 such receivables, by utilizing such receivables to secure
396 obligations of the authority, or through any combination of the
397 foregoing; and

398 (w) To administer the Essential Service Provider
399 Assistance Program.

400 SECTION 5. The following provision shall be codified as
401 Section 41-73-70, Mississippi Code of 1972:

402 41-73-70. (1) Essential service providers within the State
403 of Mississippi provide a valuable service to the residents of the
404 communities in which they are located. Many of Mississippi's
405 essential service hospitals are currently located within buildings
406 and structures that are in great need of renovation and operate
407 with equipment and technology that are out-of-date, and many of
408 Mississippi's essential service physicians operate with equipment
409 and technology that are out-of-date. It is in the public interest
410 and is vital to the public welfare of the people of Mississippi,
411 and it is declared to be the public purpose of this section to
412 develop an Essential Service Provider Assistance Program within
413 the State of Mississippi with respect to essential service
414 providers to assist in the maintenance and renovation of the
415 existing facilities of essential service hospitals and the
416 acquisition of modern equipment and upgrade of technology of
417 essential service providers in order to provide residents in the
418 state who live in rural areas access to effective and appropriate
419 health care.

420 (2) There is hereby established a statewide Essential
421 Service Provider Assistance Program to provide assistance to (a)
422 essential service hospitals in need of renovated facilities, new
423 equipment and upgraded technology and (b) essential service
424 physicians in need of new equipment and upgraded technology.

425 (3) The Essential Service Provider Assistance Program shall,
426 upon appropriate request by an essential service hospital to the

427 authority, provide funds to essential service hospitals for the
428 purposes of maintenance and renovation of essential service
429 hospital facilities and acquisition of essential service hospital
430 equipment and upgrade of technology.

431 (4) The Essential Service Provider Assistance Program shall,
432 upon appropriate request by an essential service physician to the
433 authority, provide funds to essential service physicians for the
434 purpose of acquisition of essential service physician equipment
435 and upgrade of technology.

436 (5) In accordance with the purposes of this section, there
437 is hereby established within the Health Care Expendable Fund,
438 created pursuant to Section 43-13-407, an Essential Service
439 Provider Assistance Account into which shall be transferred from
440 the Health Care Expendable Fund the following sums:

441 (a) In fiscal year 2000, Two Million Five Hundred
442 Thousand Dollars (\$2,500,000.00);

443 (b) In fiscal year 2001, Two Million Seven Hundred
444 Fifty Thousand Dollars (\$2,750,000.00);

445 (c) In fiscal year 2002, Three Million Twenty-five
446 Thousand Dollars (\$3,025,000.00);

447 (d) In fiscal year 2003, Three Million Three Hundred
448 Twenty-seven Thousand Five Hundred Dollars (3,327,500.00);

449 (e) In fiscal year 2004, and each subsequent fiscal
450 year, a sum equal to five percent (5%) of the sum transferred from
451 the Health Care Trust Fund, created pursuant to the Health Care
452 Expendable Fund;

453 (6) All income from the investment of the funds in the
454 Essential Service Provider Assistance Account shall be credited to
455 the account of the Essential Service Provider Assistance Account.

456 Any funds in the Essential Service Provider Assistance Account at
457 the end of a fiscal year shall not lapse into the State General
458 Fund but shall remain in the Essential Service Provider Assistance
459 Account.

460 (7) The Essential Service Provider Assistance Program will
461 be administered by the authority created pursuant to Section
462 41-73-7 with all its rights, duties and responsibilities set forth
463 in Section 41-73-1 et seq.

464 SECTION 6. This act shall take effect and be in force from
465 and after July 1, 2000.