To: Public Health and Welfare; Appropriations

MISSISSIPPI LEGISLATURE
REGULAR SESSION 2002
By: Senator(s) Huggins

SENATE BILL NO. 2757

AN ACT TO ESTABLISH A RURAL HOSPITAL ASSISTANCE PROGRAM TO BE ADMINISTERED BY THE MISSISSIPPI HOSPITAL EQUIPMENT AND FACILITIES AUTHORITY AND FUNDED FROM TOBACCO LITIGATION EXPENDABLE FUNDS; TO AMEND SECTIONS 41-73-3 AND 41-73-5, MISSISSIPPI CODE OF 1972, TO DEFINE AN "ESSENTIAL SERVICE HOSPITAL," "RURAL AREA" AND OTHER DEFINITIONS; TO CODIFY SECTION 41-73-70, MISSISSIPPI CODE OF 1972, AND TO AMEND SECTION 41-73-17 AND 41-73-27, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE ESTABLISHMENT AND OPERATION OF THE ESSENTIAL SERVICE PROVIDER ASSISTANCE PROGRAM, AND TO CREATE THE ESSENTIAL SERVICE PROVIDED ASSISTANCE ACCOUNT FOR ITS OPERATION INTO WHICH FUNDS SHALL BE TRANSFERRED FROM THE HEALTH CARE EXPENDABLE FUND; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 41-73-3, Mississippi Code of 1972, is amended as follows:

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

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

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

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

(4) These increased costs discourage Mississippi citizens from obtaining necessary medical care.
(5) The problems set forth above cannot be remedied solely through the operation of private enterprise or efforts by individual communities, but can be alleviated through the creation of a public body corporate and politic, separate and apart from the State of Mississippi, constituting a governmental instrumentality, to be known as the Mississippi Hospital Equipment and Facilities Authority, to encourage the investment of private capital in Mississippi hospitals through the use of public financing as provided in this act for the purpose of financing hospital equipment and hospital facilities at interest rates lower than those available in the conventional credit markets.

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

(7) Because essential service providers are located in rural areas and in areas within the state that are largely populated by persons who are Medicaid recipients or are uninsured or underinsured, they are often unable to financially afford to acquire and finance modern equipment and facilities or to accomplish necessary renovations of their existing facilities even at interest rates lower than those available in the conventional credit markets. Alleviating the condition and problem of the essential service provider set forth in this subsection (7) by providing essential service providers grants from the Health Care Expendable Fund created by Section 43-13-407 is hereby declared to be a public purpose as a matter of express legislative determination and an appropriate use of the funds of the Health Care Expendable Fund as set forth in Section 43-13-407(4). Such activities shall not be conducted for profit.
SECTION 2. Section 41-73-5, Mississippi Code of 1972, is amended as follows:

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

(a) "Act" means the Mississippi Hospital Equipment and Facilities Authority Act.
(b) "Authority" means the Mississippi Hospital Equipment and Facilities Authority created by this act and any successor to its functions.
(c) "Bonds" means bonds, notes or other evidences of indebtedness of the authority issued pursuant to this act, including refunding bonds.
(d) "Cost" as applied to hospital equipment means any and all costs of such hospital equipment and, without limiting the generality of the foregoing, shall include the following:
   (i) All costs of the acquisition, repair, restoration, reconditioning, refinancing or installation of any such hospital equipment and all costs incident or related thereto;
   (ii) The cost of any property interest in such hospital equipment including an option to purchase or leasehold interest;
   (iii) The cost of architectural, engineering, legal and related services; the cost of the preparation of plans, specifications, studies, surveys and estimates of cost and of revenue; and all other expenses necessary or incident to planning, providing or determining the need for or the feasibility and practicability of such hospital equipment; and the cost of providing or establishing a reasonable reserve fund for the payment of principal and interest on bonds;
   (iv) The cost of financing charges, including premiums or prepayment penalties, if any, and interest accrued prior to the acquisition and installation or refinancing of such...
hospital equipment and after such acquisition and installation or refinancing and start-up costs related to hospital equipment;

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

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

and

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

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

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

(ii) The cost of acquiring any property interest in such hospital facilities including the purchase thereof, the cost of an option to purchase or the cost of any leasehold interest;
(iii) The cost of architectural, engineering, legal and related services; the cost of the preparation of plans, specifications, studies, surveys and estimates of cost and of revenue; all other expenses necessary or incident to planning, providing or determining the need for or the feasibility and practicability of such hospital facilities or the acquisition thereof; and the cost of providing or establishing a reasonable reserve fund for the payment of principal of and interest on bonds;

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

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

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

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

(viii) The cost of providing for the payment of, by the appropriate
escrowing of monies or securities, the principal of and interest
on which when due will be adequate to make such payment, any
indebtedness encumbering the revenues or property of a
participating hospital institution, whether such payment is to be
effected by redemption of such indebtedness prior to maturity or
not.

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

(i) Located in a rural area;

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

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

(iv) That provides an essential service to a local
population by being the only source of emergency or primary
inpatient acute healthcare in the community in which it is
located.

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

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

(ii) Who is conducting at least seventy percent
(70%) of his or her medical practice within five (5) miles of an
essential service hospital; and

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

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

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

"Participating hospital institution" or "hospital institution" means a public or private corporation, association, foundation, trust, cooperative, agency, body politic, or other person or organization which provides or operates or proposes to provide or operate hospital facilities not for profit, and which, pursuant to the provisions of this act, contracts with the authority for the financing or refinancing of the lease or other acquisition of hospital equipment or hospital facilities, or both.

"Rural area" means an area within the State of Mississippi that is located outside of a standard metropolitan statistical area as designated by Medicare.
"State" means the State of Mississippi. The use of singular terms herein shall also include the plural of such term and the use of a plural term herein shall also include the singular of such term unless the context clearly requires a different connotation.

SECTION 3. Section 41-73-17, Mississippi Code of 1972, is amended as follows:

41-73-17. The members of the authority may appoint an executive director and/or a secretary who shall be employees of the authority, but not members thereof, and who shall serve at the pleasure of the members and receive such compensation as shall be fixed by the members. The executive director, if appointed, shall attend the meetings of the members of the authority and shall administer, manage and direct the affairs and activities of the authority in accordance with the policies and under the control and direction of the members. The executive director shall approve all accounts for salaries, allowable expenses of the authority or of any employee or consultant thereof, and expenses incidental to the operation of the authority. He shall perform such other duties as may be directed by the members in carrying out the purposes of this chapter. The practices and procedures regarding administrative functions and responsibilities of the authority shall be subject to the approval and review of the Director of the State Bond Advisory Division of the Governor's office. In lieu of or in addition to the appointment of an executive director, the authority may contract with the State Bond Advisory Division of the Governor's office to carry out in whole or in part the administrative functions and responsibilities of the authority, but may only pay the actual expenses incurred by such division in performing such functions and responsibilities. The expenses incurred by the authority in contracting for such administrative functions and responsibilities shall be paid by the
authority as a qualified cost pursuant to Section 41-73-5(d)(vii)
or 41-73-5(e)(vii).

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

SECTION 4. Section 41-73-27, Mississippi Code of 1972, is
amended as follows:

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

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

(b) To adopt, amend and repeal bylaws, rules and
regulations, not inconsistent with this act, to regulate its
affairs and to carry into effect the powers and purposes of the
authority and conduct its business;

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

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

(e) To maintain an office at such place or places
within the state as it may designate;
(f) To monitor on a continuing basis the need for hospital equipment financing and hospital facilities financing at interest rates which are consistent with the needs of hospital institutions;

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

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

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

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

(k) To procure letters of credit from any national or state banking association or other entity authorized to issue a letter of credit to secure the payment of any bonds issued by the authority or to secure the payment of any loan, lease or purchase payment owed by a participating hospital institution to the authority, including the power to pay the cost of obtaining such letter of credit;

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

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

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

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

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

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

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

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

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

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

(v) To assist participating hospital institutions to
obtain funds for any purpose by utilizing the value of the
receivables of such participating hospital institutions through
the making of loans secured by such receivables, by purchasing
such receivables, by utilizing such receivables to secure
obligations of the authority, or through any combination of the
foregoing; and

(w) To administer the Essential Service Provider
SECTION 5. The following provision shall be codified as Section 41-73-70, Mississippi Code of 1972:

41-73-70. (1) Essential service providers within the State of Mississippi provide a valuable service to the residents of the communities in which they are located. Many of Mississippi's essential service hospitals are currently located within buildings and structures that are in great need of renovation and operate with equipment and technology that are out-of-date, and many of Mississippi's essential service physicians operate with equipment and technology that are out-of-date. It is in the public interest and is vital to the public welfare of the people of Mississippi, and it is declared to be the public purpose of this section to develop an essential service provider assistance program within the State of Mississippi with respect to essential service providers to assist in the maintenance and renovation of the existing facilities of essential service hospitals and the acquisition of modern equipment and upgrade of technology of essential service providers in order to provide residents in the state who live in rural areas access to effective and appropriate health care.

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

(3) The Essential Service Provider Assistance Program shall, upon appropriate request by an essential service hospital to the authority, provide funds to essential service hospitals for the purposes of maintenance and renovation of essential service hospital facilities and acquisition of essential service hospital equipment and upgrade of technology.

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

(5) In accordance with the purposes of this section, there is hereby established within the Health Care Expendable Fund, created pursuant to Section 43-13-407, Mississippi Code of 1972, an Essential Service Provider Assistance Account into which shall be transferred from the Health Care Expendable Fund the following sums:

(a) In fiscal year 2003, Two Million Five Hundred Thousand Dollars ($2,500,000.00);
(b) In fiscal year 2004, Two Million Seven Hundred Fifty Thousand Dollars ($2,750,000.00);
(c) In fiscal year 2005, Three Million Twenty-Five Thousand Dollars ($3,025,000.00);
(d) In fiscal year 2006, Three Million Three Hundred Twenty-seven Thousand Five Hundred Dollars ($3,327,500.00);
(e) In fiscal year 2007 and each subsequent fiscal year, a sum equal to five percent (5%) of the sum transferred from the Health Care Trust Fund, created pursuant to Section 43-13-405, to the Health Care Expendable Fund.

(6) All income from the investment of the funds in the Essential Service Provider Assistance Account shall be credited to the account of the Essential Service Provider Assistance Account. Any funds in the Essential Service Provider Assistance Account at the end of a fiscal year shall not lapse into the State General Fund but shall remain in the Essential Service Provider Assistance Account.

(7) The Essential Service Provider Assistance Program will be administered by the authority created pursuant to Section 41-73-7 with all its rights, duties and responsibilities set forth in Section 41-73-1 et seq.
SECTION 6. This act shall take effect and be in force from
and after July 1, 2002.