

By: Representative Howell

To: Public Health and  
Welfare

HOUSE BILL NO. 1096  
(As Passed the House)

1 AN ACT TO AMEND SECTION 27-105-365, MISSISSIPPI CODE OF 1972,  
2 TO REVISE THE TYPES OF INVESTMENTS ALLOWED FOR COMMINGLED FUNDS OF  
3 COMMUNITY HOSPITALS; AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 27-105-365, Mississippi Code of 1972, is  
6 amended as follows:

7 27-105-365. (1) The commissioners or board of trustees of  
8 any hospital owned and operated separately or jointly by one or  
9 more counties, cities, towns, supervisors districts, or election  
10 districts or combinations thereof, including hospitals established  
11 under the authority of Sections 41-13-1 through 41-13-9, as now or  
12 hereafter amended, are hereby authorized and empowered to deposit  
13 the funds of such hospital in one or more financial institutions  
14 whose accounts are insured by the Federal Deposit Insurance  
15 Corporation, selected by the board of trustees in the same manner  
16 as county depositories are selected by boards of supervisors  
17 pursuant to Section 27-105-305, located in its county or counties,  
18 except as otherwise provided in the following paragraphs.

19 At the regular December meeting of the board of trustees in  
20 1995, or at any regular December meeting of the board thereafter,  
21 the board may, in its discretion, give notice by publication to  
22 all financial institutions in its county or counties whose  
23 accounts are insured by the Federal Deposit Insurance Corporation,  
24 that bids will be received from financial institutions at the  
25 following January meeting, or some subsequent meeting, for the  
26 privilege of keeping the hospital funds or any part thereof for a  
27 period of three (3) years, subject to earlier termination as



28 authorized in this subsection. Such bids shall be submitted and  
29 accepted in the same manner as provided in Section 27-105-305.  
30 After the board has selected a depository or depositories as  
31 provided in this subsection, the board may, at any regular  
32 December meeting during the three-year period, give notice to and  
33 receive bids from financial institutions in the manner provided in  
34 this subsection, for the privilege of keeping the hospital funds  
35 or any part thereof for a period of three (3) years, subject to  
36 earlier termination as authorized in this subsection; and after  
37 receiving such bids, the board may reject all bids and elect to  
38 keep the funds in the current depository or depositories for the  
39 remainder of the three-year period under the terms originally  
40 agreed to with the depository or depositories, or if the board  
41 determines it to be in the best interests of the hospital, it may  
42 terminate the agreement with the current depository or  
43 depositories and select a new depository or depositories or the  
44 same depository or depositories from the bids received, choosing  
45 the bid or bids proposing the best terms for the hospital.

46 Such hospital funds, when so deposited, shall have the same  
47 security and protection as required for county funds in Section  
48 27-105-315. When more than one (1) depository of whatever type is  
49 authorized, the commissioners or board of trustees may select one  
50 or more of such depositories and may apportion such deposits, at  
51 their or its discretion, if more than one (1) depository is  
52 selected. If there is no financial institution located within  
53 such county or counties, the commissioners or board of trustees of  
54 such hospital may select, in their or its discretion, a depository  
55 located outside of such county or counties.

56 The commissioners or boards of trustees of such community  
57 hospitals shall deposit the funds of such hospital into the  
58 depository selected under this section on the day when they are  
59 received or collected, or on the next business day thereafter.



60           (2) The commissioners or board of trustees of any such  
61 hospital may, in their or its discretion, maintain one or more  
62 special funds for the purpose of making necessary repairs,  
63 necessary purchases of equipment, meeting operational and  
64 maintenance expenses, allowing for depreciation, providing  
65 contingent funds for emergencies, funding hospital improvements,  
66 or providing for other special needs, and may deposit any part of  
67 such special fund in accordance with the provisions contained in  
68 subsection (1) for the deposit of other funds of such hospital.  
69 Said commissioners or board of trustees may also invest any part  
70 of such special fund, any funds derived from the sale of bonds, or  
71 any other funds in excess of the sums which will be required to  
72 meet the current needs and demands of no more than seven (7)  
73 business days in the following:

74           (a) In any bonds or other direct obligations of the  
75 United States of America or the State of Mississippi, or of any  
76 county, school district or municipality of this state, which such  
77 county, school district or municipal bonds have been approved by a  
78 reputable bond attorney or have been validated by decree of the  
79 chancery court;

80           (b) In obligations issued or guaranteed in full as to  
81 principal and interest by the United States of America which are  
82 subject to a repurchase agreement with a financial institution  
83 certified as a qualified depository;

84           (c) In United States government agency, United States  
85 government instrumentality, or United States government sponsored  
86 enterprise obligations, the principal and interest of which are  
87 fully guaranteed by the government of the United States, such as  
88 the Government National Mortgage Association; or United States  
89 government agency, United States government instrumentality, or  
90 United States government sponsored enterprise obligations, the  
91 principal and interest of which are guaranteed by any United  
92 States government agency, United States government



93 instrumentality, or United States government sponsored enterprise.  
94 However, at no time shall the funds invested in United States  
95 government agency, United States government instrumentality, or  
96 United States government sponsored enterprise obligations  
97 enumerated in the preceding sentence exceed fifty percent (50%) of  
98 all monies invested with maturities of thirty (30) days or longer.  
99 The limitation set forth in the preceding sentence shall be  
100 applicable only at the time of purchase and shall not require the  
101 liquidation of any investment at any time;

102 (d) In an account or accounts in one or more financial  
103 institutions located in this state, and such funds when so  
104 invested shall have the same security and protection as required  
105 in Section 27-105-315;

106 (e) In an insured account or accounts in one or more  
107 financial institutions in this state whose accounts are insured by  
108 the Federal Deposit Insurance Corporation; provided that the  
109 amount in any single account shall not exceed the amount which at  
110 any one time is insured by the Federal Deposit Insurance  
111 Corporation;

112 (f) In any open-end or closed-end management type  
113 investment company or investment trust registered under the  
114 provisions of 15 USCS Section 80(a)-1 et seq., provided that the  
115 portfolio of such investment company or investment trust is  
116 limited to direct obligations issued by the United States of  
117 America, United States government agencies, United States  
118 government instrumentalities or United States government sponsored  
119 enterprises, and to repurchase agreements fully collateralized by  
120 direct obligations of the United States of America, United States  
121 government agencies, United States government instrumentalities or  
122 United States government sponsored enterprises, and the investment  
123 company or investment trust takes delivery of such collateral for  
124 the repurchase agreement, either directly or through an authorized  
125 custodian. The total dollar amount of funds invested in all



126 open-end and closed-end management type investment companies and  
127 investment trusts at any one time shall not exceed twenty percent  
128 (20%) of the total dollar amount of funds invested under this  
129 subsection. The limitation set forth in the preceding sentence  
130 shall be applicable only at the time of purchase and shall not  
131 require the liquidation of any investment at any time;

132 (g) In a trust fund consisting of pooled or commingled  
133 funds of other hospitals, provided that:

134 (i) The portfolio of such trust fund may include  
135 investments in commercial paper and bankers acceptances or other  
136 short-term obligations issued by banks having one (1) of the two  
137 (2) highest *short-term* rating categories of either Standard &  
138 Poor's Corporation or Moody's Investors Service, or corporate  
139 notes and bonds having one (1) of the three (3) highest long-term  
140 rating categories of either Standard & Poor's Corporation or  
141 Moody's Investors Service, or in any open-ended or closed-ended  
142 management-type investment company or investment trust registered  
143 under the provisions of 15 USCS Section 80(a)-1 et seq., that  
144 would contain the aforementioned securities;

145 (ii) The portfolio of such trust fund is otherwise  
146 limited to investments authorized under this section; provided,  
147 however, that such investments shall not be subject to the  
148 percentage limitations set forth in subsection (2)(c) or  
149 subsection (2)(f) of this section;

150 (iii) Such trust is managed by an entity with  
151 trust powers or by an investment adviser registered with the  
152 Securities and Exchange Commission and retained as an investment  
153 manager by the commissioners or the board of trustees, as the case  
154 may be; and

155 (iv) Any investment manager approved by the  
156 commissioners or the board of trustees, as the case may be, shall  
157 invest such commingled funds as a fiduciary.



158 In addition, the commissioners or the board of trustees, in  
159 their or its discretion, may invest such funds as permitted by  
160 Section 19-9-29, 21-33-323, 27-105-33 or 37-59-43, as the same may  
161 be amended from time to time.

162 In any event, the bonds or obligations described in paragraph  
163 (a), (b) or (c) of this subsection (2) in which such funds are  
164 invested shall mature or be redeemable prior to the time the funds  
165 so invested will be needed for expenditures. When bonds or other  
166 obligations have been so purchased, the same may be sold or  
167 surrendered for redemption at any time by order or resolution of  
168 the commissioners or board of trustees of any such hospital, and  
169 the president or vice president, when authorized by such order or  
170 resolution, shall have the power and authority to execute all  
171 instruments and take such other action as may be necessary to  
172 effectuate the sale or redemption thereof.

173 When any such special fund is maintained for a purpose that  
174 requires contract letting or other action by the governing  
175 authority or authorities of the counties, cities, towns,  
176 supervisors districts or election districts, separately or jointly  
177 owning and operating such hospital, the commissioners or board of  
178 trustees of the hospital may transfer the whole or any part of any  
179 such special fund to the governing authority or authorities  
180 aforesaid on condition that the same be used for such purpose or  
181 returned to the transferring commissioners or board of trustees  
182 within the time designated in the conditions.

183 (3) All funds which shall be derived from any tax levied for  
184 the support and maintenance of any such hospital, and all other  
185 funds which may be made available for the support and maintenance  
186 of any such hospital by the state or any county or municipality,  
187 and all fees and other monies which may be collected or received  
188 by or for such hospital shall be placed in a special fund to the  
189 credit of such hospital within sixty (60) days after collection,  
190 and all such funds shall be expended and paid out upon the



191 allowance of the board of trustees or commissioners of the  
192 hospital, as the case may be, and disbursed by checks signed by  
193 such person, officer or officers, as may be designated by such  
194 board of trustees or commissioners. Any officer or person who  
195 shall be designated by such board of trustees or commissioners to  
196 execute such checks shall furnish to such board of trustees or  
197 commissioners a good and sufficient surety bond in such amount as  
198 such board of trustees may fix, conditioned upon the faithful  
199 discharge of his duties, and the premium on such bond shall be  
200 paid from the funds available for the support and maintenance of  
201 such hospital. No funds shall be disbursed by any such hospital  
202 until the board of trustees or the commissioners thereof shall  
203 have adopted an annual budget and submitted same to the respective  
204 governing authority or authorities of the counties, cities, towns,  
205 supervisors districts, or election districts, separately or  
206 jointly owning and operating such hospital, and until such budget  
207 shall have been approved by the governing authority or  
208 authorities, as the case may be, which approval shall be evidenced  
209 by a proper order recorded upon the minutes of each such  
210 authority. The accounts and records of any such hospital shall be  
211 audited by the State Department of Audit at the same time and in  
212 the same manner as the accounts and financial records of the  
213 county are audited, and for such purpose shall be considered in  
214 all respects as county accounts and records; however, this  
215 provision with regard to such audits shall be applicable only to  
216 hospitals owned wholly or in part by a county.

217 (4) The provisions of this section shall not apply to  
218 hospitals owned jointly by a city and county and operated by lease  
219 agreement or contract with a nonprofit hospital corporation.

220 **SECTION 2.** This act shall take effect and be in force from  
221 and after July 1, 2003.

