HOUSE BILL NO. 1221

1 AN ACT TO CODIFY NEW SECTION 41-73-70, MISSISSIPPI CODE OF
2 1972, TO PROVIDE FOR THE CREATION OF THE RURAL HOSPITAL ASSISTANCE
3 PROGRAM, WHICH PROVIDES FINANCIAL ASSISTANCE TO RURAL HOSPITALS IN
4 FINANCIAL DISTRESS WITH FUNDS FROM THE HEALTH CARE EXPENDABLE
5 FUND; TO AMEND SECTION 41-73-3, MISSISSIPPI CODE OF 1972, TO
6 RECOGNIZE THE RURAL HOSPITAL ASSISTANCE PROGRAM AS A PUBLIC
7 PURPOSE; TO AMEND SECTION 41-73-5, MISSISSIPPI CODE OF 1972, TO
8 DEFINE "RURAL HOSPITAL IN FINANCIAL DISTRESS" AND "RURAL AREA"
9 UNDER THE MISSISSIPPI HOSPITAL EQUIPMENT AND FACILITIES AUTHORITY
10 ACT; TO AMEND SECTION 41-73-27, MISSISSIPPI CODE OF 1972, TO
11 PROVIDE THE AUTHORITY WITH THE POWER TO ADMINISTER THE RURAL
12 HOSPITAL ASSISTANCE PROGRAM; AND FOR RELATED PURPOSES.
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14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:
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16 SECTION 1. The following shall be codified as Section
17 41-73-70, Mississippi Code of 1972:
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19 41-73-70. (1) Rural hospitals within the State of
20 Mississippi provide a valuable service to the residents of the
21 communities in which they are located. Many of Mississippi's
22 rural hospitals are experiencing financial distress. It is in the
23 public interest and is vital to the public welfare of the people
24 of Mississippi, and it is declared to be the public purpose of
25 this section to develop a rural hospital assistance program within
26 the State of Mississippi with respect to rural hospitals in
27 financial distress in order to assist those hospitals to continue
28 operating and maintaining a certain level of health care in the
29 communities they serve so they may provide residents in the state
30 who live in rural areas access to effective and appropriate health
31 care.
32
33 (2) There is established a statewide Rural Hospital
34 Assistance Program to provide assistance to rural hospitals in
35 financial distress.
(3) The Rural Hospital Assistance Program will be administered by the authority created under this Chapter with all its rights, duties and responsibilities set forth in this Chapter.

(4) The Rural Hospital Assistance Program shall, upon proof delivered to the authority of a rural hospital that it is in financial distress, provide funds to that rural hospital in financial distress for the purposes of operating the hospital and maintaining necessary health care services.

(5) In accordance with the purposes of this section, there is established within the Health Care Expendable Fund, created under Section 42-13-407, a Rural Hospital Assistance Account into which shall be transferred from the Health Care Expendable Fund the following sums:

   (a) In fiscal year 2004, Two Million Five Hundred Thousand Dollars ($2,500,000.00);
   (b) In fiscal year 2005, Two Million Seven Hundred Fifty Thousand Dollars ($2,750,000.00);
   (c) In fiscal year 2006, Three Million Twenty-five Thousand Dollars ($3,025,000.00);
   (d) In fiscal year 2007, Three Million Three Hundred Twenty-seven Thousand Five Hundred Dollars ($3,327,500.00);
   (e) In fiscal year 2008 and each subsequent fiscal year, a sum equal to five percent (5%) of the sum transferred from the Health Care Trust Fund, created under Section 43-13-405, to the Health Care Expendable Fund.

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

SECTION 2. 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) Hospitals 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 often experience financial difficulties with respect to basic and necessary operational requirements of continuing to provide a certain level of health care services. These rural hospitals in financial distress are often an individual's most immediate access to health care and are often faced with having to scale back on the health care services offered in order to continue to operate. The state recognizes the importance of (a) allowing these rural hospitals to continue operating and providing the health care services needed in a community and (b) assisting them in their efforts to continue to provide necessary health services. Alleviating the condition and problem of rural hospitals in financial distress by providing them grants from the Rural Hospital Assistance Account in the Health Care Expendable Fund created by Section 41-73-70(5) is declared to be a public purpose as a matter of express legislative determination and an appropriate use of the funds of the Rural Hospital Assistance Fund as set forth in this chapter.

SECTION 3. 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 or the making provision 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) "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.

(g) "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, infirm, 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.

(h) "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.

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

(j) "Rural hospital in financial distress" means any
hospital in the State of Mississippi:

(i) Located in a rural area;
(ii) That has an average daily census of less than 260
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 can prove its financial distress by
demonstrating either (a) that its debt to equity ratio is greater
than two-to-one (2:1), (b) that the total value of its assets is
less than its total liabilities, or (c) that, for a period of two
(2) months, its monthly income is not sufficient to pay its
monthly expenses as they become due; this proof must be verified
by an independent auditor.

(k) "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 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 Rural Hospital Assistance Program

established under Section 41-73-70.

SECTION 5. This act shall take effect and be in force from
and after July 1, 2003.