

By: Representatives Fredericks, Dedeaux,
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Upshaw

To: Local and Private
Legislation; Ways and Means

HOUSE BILL NO. 1682

1 AN ACT TO AMEND CHAPTER 950, LOCAL AND PRIVATE LAWS OF 1980,
2 AS LAST AMENDED BY CHAPTER 978, LOCAL AND PRIVATE LAWS OF 1998, TO
3 INCREASE FROM \$120 MILLION TO \$215 MILLION THE PRINCIPAL AMOUNT OF
4 BONDS THAT MAY BE ISSUED FOR THE MEMORIAL HOSPITAL AT GULFPORT TO
5 AUTHORIZE UNDERTAKING ALL THINGS NECESSARY OR HELPFUL FOR THE
6 HOSPITAL TO PARTICIPATE IN ALL ASPECTS OF FEDERAL AND STATE
7 LEGISLATION AND PROGRAMS RELATED TO HURRICANE KATRINA RELIEF, AND
8 TO AUTHORIZE UNDERTAKING CREDIT SUPPORT INSTRUMENTS FOR THE
9 BENEFIT OF THE HOSPITAL; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** Chapter 950, Local and Private Laws of 1980, as
12 amended by Chapter 844, Local and Private Laws of 1981, as amended
13 by Chapter 818, Local and Private Laws of 1982, as amended by
14 Chapter 876, Local and Private Laws of 1991, as amended by Chapter
15 978, Local and Private Laws of 1998, is amended as follows:

16 Section 1. It is hereby determined and declared that for the
17 benefit of the people of the City of Gulfport, Mississippi, and
18 the people of Supervisors Districts Two, Three and Four, and
19 election districts New Hope, Poplar Head and West Creek of
20 Supervisors District Five, of Harrison County, Mississippi, as
21 those supervisors districts and election districts existed on July
22 18, 1946, and the surrounding area, the increase of their
23 commerce, welfare and prosperity, and the improvement and
24 maintenance of their health and living conditions, it is essential
25 that the people of said area have access to adequate medical care
26 and hospital facilities; it is essential that the City of
27 Gulfport, Mississippi, and the Board of Supervisors of Harrison
28 County, Mississippi, acting for and on behalf of Supervisors
29 Districts Two, Three and Four and election districts New Hope,
30 Poplar Head and West Creek of Supervisors District Five, as those

31 supervisors districts and election districts existed on July 18,
32 1946, be provided with appropriate additional means to assist in
33 the improvement and maintenance of the public health; it is the
34 purpose of this act to provide a measure of assistance and an
35 alternative method to enable either the City of Gulfport,
36 Mississippi, or the Board of Supervisors of Harrison County,
37 Mississippi, acting for and on behalf of Supervisors Districts
38 Two, Three and Four and election districts New Hope, Poplar Head
39 and West Creek of Supervisors District Five, as those supervisors
40 districts and election districts existed on July 18, 1946, or
41 both, to issue bonds to provide the facilities which are needed to
42 accomplish the purposes of this act, all to the public benefit and
43 good, as more fully provided herein. This act shall not suspend
44 the operation of general law and shall be liberally construed in
45 conformity with the intention expressed in this section.

46 Section 2. Whenever used in this act, unless a different
47 meaning clearly appears in the context, the following terms,
48 whether used in the singular or plural, shall be given the
49 following meanings:

50 (a) "Governing body" shall mean the Mayor and Board of
51 Commissioners of the City of Gulfport or the Board of Supervisors
52 of Harrison County, Mississippi, acting for and on behalf of
53 Supervisors Districts Two, Three and Four and election districts
54 New Hope, Poplar Head and West Creek of Supervisors District Five,
55 as those supervisors districts and election districts existed on
56 July 18, 1946, or both of said bodies in the event that both shall
57 determine to issue bonds.

58 (b) "Board of trustees" shall mean the Board of
59 Trustees of the Memorial Hospital at Gulfport, which is jointly
60 owned by the City of Gulfport and Supervisors Districts Two, Three
61 and Four, and the New Hope, Poplar Head and West Creek election
62 districts of Supervisors District Five of Harrison County,
63 Mississippi, as they existed on July 18, 1946.

64 (c) "Bonds" shall mean those debt obligations of the
65 issuer issued under the provisions of this act, which debt
66 obligations may be issued as bonds, notes, certificates of
67 indebtedness or in such other form as may be determined by the
68 governing body which is not inconsistent with the provisions of
69 this act.

70 (d) "Issuer" shall mean the City of Gulfport,
71 Mississippi, or Supervisors Districts Two, Three and Four, and
72 election districts New Hope, Poplar Head and West Creek of
73 Supervisors District Five, of Harrison County, Mississippi, as
74 those supervisors districts and election districts existed on July
75 18, 1946, or both, acting in their respective capacities as the
76 issuers of bonds pursuant to this act.

77 (e) "Hospital" shall mean the Memorial Hospital at
78 Gulfport, together with structures, facilities, machinery,
79 equipment and/or other property suitable for use as or in
80 connection with such hospital or any of its legally authorized
81 health care activities, including, without limitation, sites
82 therefor, communication facilities, computer facilities, dining
83 halls, fire fighting facilities, fire prevention facilities, food
84 service and preparation facilities, interns' residences,
85 laboratories, laundries, maintenance facilities, offices, parking
86 areas and structures, pharmacies, recreational facilities,
87 research facilities, storage facilities, utilities, radiology
88 facilities, and all other property, whether real or personal, and
89 wherever located, which it is authorized by law to own, or any
90 combination of the foregoing. The hospital shall be owned in
91 accordance with the provisions of Chapter 13, Title 41,
92 Mississippi Code of 1972, and the terms of a contract dated July
93 18, 1946, as the same may be amended from time to time, between
94 the City of Gulfport, Mississippi, and the Board of Supervisors of
95 Harrison County, Mississippi, acting for and on behalf of
96 Supervisors Districts Two, Three and Four, and the New Hope,

97 Poplar Head and West Creek election districts of Supervisors
98 District Five of Harrison County, Mississippi, as they existed on
99 July 18, 1946.

100 Section 3. The governing body, acting for and on behalf of
101 the issuer, is hereby authorized to issue bonds to provide funds
102 to establish, erect, build, construct, remodel, add to, acquire,
103 equip and furnish the hospital and to acquire real estate
104 therefor. Bonds issued pursuant to this act, exclusive of bonds
105 issued to provide for the refunding of outstanding bonds, shall
106 not exceed Two Hundred Fifteen Million Dollars (\$215,000,000.00).

107 Section 4. Prior to the issuance of any bonds, the governing
108 body shall adopt a resolution declaring its intention so to do,
109 stating the amount of bonds proposed to be issued, the purposes
110 for which the bonds are to be issued, and the date upon which the
111 governing body proposes to direct the issuance of such bonds.
112 Such resolution shall be published once a week for at least three
113 (3) consecutive weeks in at least one (1) newspaper published in
114 Harrison County, Mississippi. The first publication of such
115 resolution shall be made not less than twenty-one (21) days prior
116 to the date fixed in such resolution to direct the issuance of the
117 bonds, and the last publication shall be made not more than seven
118 (7) days prior to such date. If ten percent (10%) of the
119 qualified electors of the issuer, or fifteen hundred (1500),
120 whichever is the lesser, shall file a written protest against the
121 issuance of such bonds on or before the date specified in such
122 resolution, then an election on the question of the issuance of
123 such bonds shall be called and held as herein provided. If no
124 such protest be filed, then such bonds may be issued without an
125 election on the question of the issuance thereof at any time
126 within a period of two (2) years after the date specified in the
127 above-mentioned resolution; provided, however, that the governing
128 body, in its discretion, may nevertheless call an election on such
129 question, in which event it shall not be necessary to publish the

130 resolution declaring its intention to issue bonds as herein
131 provided.

132 Section 5. Where an election is to be called as provided in
133 Section 4 of this act, notice of such election shall be signed by
134 the clerk of the issuer, and shall be published once a week for at
135 least three (3) consecutive weeks in at least one (1) newspaper
136 published in Harrison County, Mississippi. The first publication
137 of such notice shall be made not less than twenty-one (21) days
138 prior to the date fixed for such election and the last publication
139 shall be made not more than seven (7) days prior to such date.

140 Section 6. Such election shall be held, as far as is
141 practicable, in the same manner as other special elections are
142 held in the issuer. At such election, all qualified electors of
143 the issuer may vote, and the ballots used at such election shall
144 have printed thereon a brief statement of the amount and purpose
145 of the proposed bond issue and the words "FOR THE BOND ISSUE" and
146 "AGAINST THE BOND ISSUE," and the voter shall vote by placing a
147 cross mark (x) or a check mark (✓) opposite his choice on the
148 proposition.

149 Section 7. When the results of the election on the question
150 of the issuance of such bonds shall have been canvassed by the
151 election commissioners of the issuer and certified by them to the
152 governing body, it shall be the duty of such governing body to
153 determine and adjudicate whether or not a majority of the
154 qualified electors who voted thereon in such election voted in
155 favor of the issuance of such bonds, and unless a majority of the
156 qualified electors who voted thereon in such election shall have
157 voted in favor of the issuance of such bonds, then such bonds
158 shall not be issued. Should a majority of the qualified electors
159 who voted thereon in such election vote in favor of the issuance
160 of such bonds, then the governing body may issue such bonds,
161 either in whole or in part, within two (2) years after the date of

the election or the date of the final favorable termination of any litigation affecting the issuance of such bonds.

Section 8. All bonds shall be limited obligations of the issuer, the principal of, redemption premium, if any, and interest on which shall be payable solely from and shall be secured by a pledge of the revenues and receipts derived from the operation of the hospital, which pledge may be subordinate to a prior pledge of the revenues of the hospital securing obligations outstanding at the time of issuance of the bonds. Bonds and interest coupons appurtenant thereto shall never constitute an indebtedness of the City of Gulfport, Harrison County, Mississippi, or any subdivision thereof, within the meaning of any state constitutional provision or statutory limitation, and shall never constitute nor give rise to a pecuniary liability of the City of Gulfport, Harrison County, or any subdivision thereof or a charge against their general credit or taxing powers, and such fact shall be plainly stated on the face of each such bond. The bonds shall not be considered when computing any limitation of indebtedness of the issuer established by law. All bonds and all interest coupons appurtenant thereto shall be construed to be negotiable instruments, despite the fact that they are payable solely from a specified source.

Section 9. Bonds may be executed and delivered by the issuer at any time and from time to time, may be in such form and denominations and of such terms and maturities, may be in fully registered form or in bearer form registrable either as to principal or interest, or both, may bear such conversion privileges and be payable in such installments and at such time or times not exceeding forty (40) years from the date thereof, may be payable at such place or places, whether within or without the State of Mississippi, may bear interest at such rate or rates, not to exceed fourteen percent (14%) per annum, payable at such time or times and at such place or places, and evidenced in such

manner, and may contain such provisions not inconsistent herewith,
all as shall be provided in the proceedings of the governing body
whereunder the bonds shall be authorized to be issued. If deemed
advisable by the governing body, there may be retained in the
proceedings under which any bonds are authorized to be issued an
option to redeem all or any part thereof as may be specified in
such proceedings, at such price or prices and after such notice or
notices and on such terms and conditions as may be set forth in
such proceedings and briefly recited or referred to on the face of
the bonds, but nothing herein contained shall be construed to
confer on the issuer any right or option to redeem any bonds,
except as may be provided in the proceedings under which they
shall be issued. Bonds may be sold at such price or prices, at
public or private sale, in such manner and at such times as the
issuer shall determine; provided, however, that no such sale shall
be at a price so low as to require the payment of interest on the
money received therefor at more than fourteen percent (14%) per
annum computed with relation to the absolute maturity of the
bonds, in accordance with the actuarial method, excluding from
such computation the amount of any premium to be paid on
redemption of any bonds prior to maturity. The issuer may pay all
expenses, premiums and commissions which the governing body may
deem necessary or advantageous in connection with the issuance and
sale thereof. The issuance by the issuer of one or more series of
bonds shall not preclude it from issuing other series of bonds,
but the proceedings whereunder any subsequent bonds may be issued
shall recognize and protect any prior pledge made for any prior
issue of bonds.

The proceeds of bonds may be used (a) to establish, erect,
build, construct, remodel, add to, equip and furnish the hospital,
and to acquire real estate therefor, (b) to pay interest on the
bonds while such hospital is being established, erected, built,
constructed, remodeled, added to, equipped or furnished and for a

228 maximum of six (6) months after the estimated date of completion,
229 (c) to provide for the payment of or to make provision for payment
230 of, by the appropriate escrowing of monies or securities, the
231 principal of and interest on which when due will be adequate to
232 make such payment, any indebtedness encumbering the revenues of
233 the hospital, whether such payment is to be effected by redemption
234 of such indebtedness prior to maturity or by payment at maturity,
235 (d) to pay engineering, fiscal, printing, accounting, financial
236 advisor, construction manager, feasibility consultant, hospital
237 consultant, architectural and legal expenses incurred in
238 connection with such hospital and the issuance of the bonds, (e)
239 to provide for the establishment of a reasonable reserve fund for
240 the payment of principal of and interest on the bonds in the event
241 of a deficiency in the revenues and receipts available for such
242 payments, (f) to pay the premium or premiums on any insurance
243 obtained from any source to assure the prompt payment of principal
244 and interest when due, and (g) to pay start-up costs and costs of
245 operation and maintenance of the hospital while it is being
246 established, erected, built, constructed, remodeled, added to,
247 equipped or furnished and for a maximum of twelve (12) months
248 after the estimated date of completion.

249 Section 10. (1) Any debt obligations of the issuer,
250 including bonds issued under this act and obligations issued under
251 Sections 41-13-15 through 41-13-51, Mississippi Code of 1972,
252 issued to establish, erect, build, construct, remodel, add to,
253 equip and furnish the hospital, at any time outstanding may, at
254 any time and from time to time, be refunded by the issuer by the
255 issuance of its refunding bonds in such amount as the governing
256 body may deem necessary, but not exceeding (a) the principal
257 amount of the obligations being refinanced, (b) applicable
258 redemption premiums thereon, (c) unpaid interest on such
259 obligations to the date of delivery or exchange of the refunding
260 bonds, (d) in the event the proceeds from the sale of the

261 refunding bonds are to be deposited in trust as hereinafter
262 provided, interest to accrue on such obligations from the date of
263 delivery of the refunding bonds to the date of maturity or to the
264 first redemption date of the obligations to be refunded, and (e)
265 expenses, premiums and commissions deemed by the governing body to
266 be necessary in connection with the issuance of the refunding
267 bonds.

268 (2) Any such refunding may be effected, whether the
269 obligations to be refunded shall have then matured or shall
270 thereafter mature, either by the exchange of the refunding bonds
271 for the obligations to be refunded thereby with the consent of the
272 holders of the obligations so to be refunded, or by sale of the
273 refunding bonds and the application of the proceeds thereof to the
274 payment of the obligations to be refunded thereby, and regardless
275 of whether or not the obligations proposed to be refunded shall be
276 payable on the same date or different dates or shall be due
277 serially or otherwise.

278 (3) The principal proceeds from the sale of any refunding
279 bonds shall be applied only as follows:

280 (a) To the immediate payment and retirement of the
281 obligations being refunded; or

282 (b) To the extent not required for the immediate
283 payment of the obligations being refunded, then such proceeds
284 shall be deposited in trust to provide for the payment and
285 retirement of the obligations being refunded, and to pay any
286 expenses incurred in connection with such refunding, but may also
287 be used to pay interest on the refunding bonds prior to the
288 retirement of the obligations being refunded. Money in any such
289 trust fund may be invested in direct obligations of, or
290 obligations the principal of and interest on which are guaranteed
291 by, the United States government, or obligations of any agency or
292 instrumentality of the United States government, or in
293 certificates of deposit issued by a bank or trust company or

insured savings and loan association located in the State of Mississippi, if such certificates shall be secured by a pledge of any of said obligations having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. Nothing herein shall be construed as a limitation on the duration of any deposit in trust for the retirement of obligations being refunded, but which shall not have matured and which shall not be presently redeemable.

Section 11. (1) The bonds may be secured by a trust agreement among the issuer, the board of trustees, and a corporate trustee, which may be any trust company or bank incorporated under the laws of the United States or the laws of any state in the United States. Any such trust agreement may pledge or assign for the payment of the principal of, redemption premium, if any, and interest on the bonds, the revenues and receipts derived from the operation of the hospital.

(2) Such trust agreement or resolution providing for the issuance of bonds may provide for the creation and maintenance of such reserve funds as the governing body shall determine are reasonable and proper. Any such trust agreement or any resolution providing for the issuance of bonds may contain such provisions for protecting and enforcing the rights and remedies of the holders thereof as may be reasonable and proper and not in violation of law, including the duties of the issuer and the board of trustees in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation and insurance of the hospital for which such bonds shall have been issued or the revenues from which are pledged as security for the bonds, and the custody, safeguarding and application of all monies. Any such trust agreement may set forth the rights and remedies of the bondholders and of the corporate trustee, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds

and debentures of corporations. In addition to the foregoing, any such trust agreement may contain such provisions as the governing body may deem reasonable and proper for the security of the bondholders and may also contain provisions governing the issuance of bonds to replace lost, stolen or mutilated bonds.

(3) Any trust agreement made in accordance with the provisions of this act may contain a provision that, in the event of a default in the payment of the principal of, redemption premium, if any, or the interest on the bonds issued in accordance with, or relating to, such agreement, or in the performance of any agreement contained in the proceedings, trust agreement or instruments relating to such bonds, such payment and performance may be enforced by mandamus or by the appointment of a receiver in equity with power to charge and collect the revenues and receipts, and rental payments, if any, pledged to the payment of the bonds and to apply such revenues and receipts, and rental payments, if any, in accordance with such proceedings, trust agreements or instruments.

Section 12. No bond shall bear more than one (1) rate of interest; each bond shall bear interest from its date to its stated maturity date at the interest rate specified on the bonds; all bonds of the same maturity shall bear the same rate of interest from date to maturity. All interest accruing on bonds shall be payable semiannually or annually, except that the first interest coupon attached to any bond may be for any period not exceeding one (1) year. No interest payment shall be evidenced by more than one (1) coupon, and neither cancelled nor supplemental coupons shall be permitted.

Section 13. All bonds shall be executed on behalf of the issuer by the manual or facsimile signature of the mayor if the issuer is the City of Gulfport or by the president of the board of supervisors, if the issuer is Supervisors Districts Two, Three and Four, and election districts New Hope, Poplar Head and West Creek

360 of Supervisors District Five, of Harrison County, Mississippi, as
361 those supervisors districts and election districts existed on July
362 18, 1946, and shall be countersigned by the manual or facsimile
363 signature of the Clerk of the City of Gulfport or the clerk of the
364 board of supervisors, whichever is applicable; provided that at
365 least one (1) signature on each bond shall be manual. All coupons
366 shall be executed on behalf of the issuer by the facsimile
367 signatures of the mayor or president of the board of supervisors,
368 as applicable, and clerk of the issuer. If the officers whose
369 signatures or countersignatures appear on the bonds or interest
370 coupons shall cease to be such officers before delivery of the
371 bonds, such signatures or countersignatures shall, nevertheless,
372 be valid and sufficient for all purposes, the same as if they had
373 remained in office until such delivery.

374 Section 14. Bonds issued under the provisions of this act
375 shall be legal investments for commercial banks, savings and loan
376 associations and insurance companies organized under the laws of
377 this state.

378 Section 15. The board of trustees shall continue to have the
379 authority, powers, rights, privileges and immunities with respect
380 to the hospital as provided under Sections 41-13-15 through
381 41-13-51, Mississippi Code of 1972.

382 Section 16. This act, without reference to any statute not
383 referred to herein, shall be deemed to be full and complete
384 authority for the issuance of bonds, and shall be construed as an
385 additional and alternative method therefor, and none of the
386 present restrictions, requirements, conditions or limitations of
387 law applicable to the issuance or sale of bonds, notes or other
388 obligations by issuers in this state shall apply to the issuance
389 and sale of bonds under this act, and no proceedings shall be
390 required for the issuance of bonds other than those provided for
391 and required herein, and all powers necessary to be exercised in

392 order to carry out the provisions of this act are hereby
393 conferred.

394 Section 17. The bonds authorized by this act and the income
395 therefrom shall be exempt from all taxation in the State of
396 Mississippi.

397 **SECTION 2.** This act shall take effect and be in force from
398 and after its passage.