

By: Senator(s) Wiggins, Dawkins, Horhn,
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To: Accountability,
Efficiency, Transparency

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2407

1 AN ACT TO AMEND SECTION 25-41-3, MISSISSIPPI CODE OF 1972, TO
2 CLARIFY THAT THE BOARD OF TRUSTEES OF A COMMUNITY HOSPITAL IS A
3 PUBLIC BODY; TO AMEND SECTION 25-41-7, MISSISSIPPI CODE OF 1972,
4 TO CLARIFY THE ABILITY OF THE BOARD OF A TRUSTEES TO GO INTO
5 EXECUTIVE SESSION FOR MATTERS CONCERNING THE OPERATION OF THE
6 HOSPITAL AS A BUSINESS ENTITY; TO AMEND SECTION 25-61-9,
7 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT RECORDS CONTAINING
8 INFORMATION CONCERNING TRADE SECRETS AND CONFIDENTIAL COMMERCIAL
9 AND FINANCIAL INFORMATION OF A PROPRIETARY NATURE DEVELOPED BY A
10 PUBLIC HOSPITAL ARE NOT SUBJECT TO THE MISSISSIPPI PUBLIC RECORDS
11 ACT OF 1983; TO AMEND SECTION 25-61-11, MISSISSIPPI CODE OF 1972,
12 TO CLARIFY THAT FEDERAL STATUTORY LAW IMPOSING CONFIDENTIALITY
13 UPON A RECORD WILL EXEMPT THE RECORD FROM THE MISSISSIPPI PUBLIC
14 RECORDS ACT OF 1983; TO AMEND SECTION 25-61-12, MISSISSIPPI CODE
15 OF 1972, TO PROVIDE THAT RECORDS RELATING TO THE BUSINESS
16 DEVELOPMENT OF A PUBLIC HOSPITAL ARE NOT SUBJECT TO THE
17 MISSISSIPPI PUBLIC RECORDS ACT OF 1983; TO AMEND SECTION 41-13-10,
18 MISSISSIPPI CODE OF 1972, TO MAKE TECHNICAL CORRECTIONS; TO AMEND
19 SECTION 41-13-29, MISSISSIPPI CODE OF 1972, TO IMPOSE A GREATER
20 RANGE FOR THE PERFORMANCE BOND TO BE SECURED ON BEHALF OF TRUSTEES
21 OF A COMMUNITY HOSPITAL AND TO REVISE THE QUALIFICATIONS OF
22 PERSONS TO BE APPOINTED TO THE BOARD OF TRUSTEES OF A COMMUNITY
23 HOSPITAL; TO AMEND SECTIONS 41-13-35 AND 41-13-47, MISSISSIPPI
24 CODE OF 1972, TO MAKE TECHNICAL CORRECTIONS; TO AMEND SECTION
25 27-104-155, MISSISSIPPI CODE OF 1972, TO REQUIRE A LEVEL OF
26 TRANSPARENCY AND ACCOUNTABILITY FOR COMMUNITY HOSPITALS; TO AMEND
27 SECTION 41-9-68, MISSISSIPPI CODE OF 1972, TO CLARIFY THE PUBLIC
28 HOSPITAL RECORDS THAT ARE EXEMPT FROM THE MISSISSIPPI PUBLIC
29 RECORDS ACT OF 1983; AND FOR RELATED PURPOSES.

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



31 **SECTION 1.** Section 25-41-3, Mississippi Code of 1972, is
32 amended as follows:

33 25-41-3. For purposes of this chapter, the following words
34 shall have the meaning ascribed herein, to wit:

35 (a) "Public body" means any executive or administrative
36 board, commission, authority, council, department, agency, bureau
37 or any other policymaking entity, or committee thereof, of the
38 State of Mississippi, or any political subdivision or municipal
39 corporation of the state, whether * * * the entity be created by
40 statute or executive order, which is supported wholly or in part
41 by public funds or expends public funds, and any standing, interim
42 or special committee of the Mississippi Legislature. The term
43 "public body" includes the governing board of a charter school
44 authorized by the Mississippi Charter School Authorizer Board and
45 the board of trustees of a community hospital as defined in
46 Section 41-13-10. There shall be exempted from the provisions of
47 this chapter:

48 (i) The judiciary, including all jury
49 deliberations;

50 * * *

51 (* * *ii) Law enforcement officials;

52 (* * *iii) The military;

53 (* * *iv) The State Probation and Parole Board;

54 (* * *y) The Workers' Compensation Commission;



55 (* * * vi) Legislative subcommittees and
56 legislative conference committees;

57 (* * * vii) The arbitration council established in
58 Section 69-3-19;

59 (* * * viii) License revocation, suspension and
60 disciplinary proceedings held by the Mississippi State Board of
61 Dental Examiners; and

62 (* * * ix) Hearings and meetings of the Board of
63 Tax Appeals and of the hearing officers and the board of review of
64 the Department of Revenue as provided in Section 27-77-15.

65 (b) "Meeting" means an assemblage of members of a
66 public body at which official acts may be taken upon a matter over
67 which the public body has supervision, control, jurisdiction or
68 advisory power; "meeting" also means any * * * assemblage through
69 the use of video or teleconference devices.

70 **SECTION 2.** Section 25-41-7, Mississippi Code of 1972, is
71 amended as follows:

72 25-41-7. (1) Any public body may enter into executive
73 session for the transaction of public business; * * * however, all
74 meetings of any * * * public body shall commence as an open
75 meeting, and an affirmative vote of three-fifths (3/5) of all
76 members present shall be required to declare an executive session.

77 (2) The procedure to be followed by any public body in
78 declaring an executive session shall be as follows: Any member
79 shall have the right to request by motion a closed determination



80 upon the issue of whether or not to declare an executive
81 session. * * * The motion, by majority vote, shall require the
82 meeting to be closed for a preliminary determination of the
83 necessity for executive session. No other business shall be
84 transacted until the discussion of the nature of the matter
85 requiring executive session has been completed and a vote, as
86 required in subsection (1) hereof, has been taken on the issue.

87 (3) An executive session shall be limited to matters allowed
88 to be exempted from open meetings by subsection (4) of this
89 section. The reason for holding * * * an executive session shall
90 be stated in an open meeting, and the reason so stated shall be
91 recorded in the minutes of the meeting. Nothing in this section
92 shall be construed to require that any meeting be closed to the
93 public, nor shall any executive session be used to circumvent or
94 to defeat the purposes of this chapter.

95 (4) A public body may hold an executive session pursuant to
96 this section for one or more of the following reasons:

97 (a) Transaction of business and discussion of personnel
98 matters relating to the job performance, character, professional
99 competence, or physical or mental health of a person holding a
100 specific position, or matters concerning the recruitment of
101 potential physician employees or physician partners by a public
102 hospital.

103 (b) Strategy sessions or negotiations with respect to
104 prospective litigation, litigation or issuance of an appealable



105 order when an open meeting would have a detrimental effect on the
106 litigating position of the public body.

107 (c) Transaction of business and discussion regarding
108 the report, development or course of action regarding security
109 personnel, plans or devices.

110 (d) Investigative proceedings by any public body
111 regarding allegations of misconduct or violation of law.

112 (e) Any body of the Legislature which is meeting on
113 matters within the jurisdiction of * * * that body.

114 (f) Cases of extraordinary emergency which would pose
115 immediate or irrevocable harm or damage to persons * * * or
116 property, or both, within the jurisdiction of * * * the public
117 body.

118 (g) Transaction of business and discussion regarding
119 the prospective purchase, sale or leasing of lands.

120 (h) Discussions between a school board and individual
121 students who attend a school within the jurisdiction of * * * the
122 school board or the parents or teachers of * * * the students
123 regarding problems of * * * the students or their parents or
124 teachers.

125 (i) Transaction of business and discussion concerning
126 the preparation of tests for admission to practice in recognized
127 professions.

128 (j) Transaction of business and discussions or
129 negotiations regarding the location, relocation or expansion of a



130 business or an industry, and the recruitment of physicians or
131 formation of partnerships with health care professionals before
132 the health care professional or health care professional group is
133 employed by or contracts with the public hospital.

134 (k) Transaction of business and discussions regarding
135 employment or job performance of a person in a specific position
136 or termination of an employee holding a specific position. The
137 exemption provided by this paragraph includes the right to enter
138 into executive session concerning a line item in a budget which
139 might affect the termination of an employee or employees. All
140 other budget items shall be considered in open meetings and final
141 budgetary adoption shall not be taken in executive session.

142 (l) Discussions regarding material or data exempt from
143 the Mississippi Public Records Act of 1983 pursuant to Section
144 25-11-121.

145 (5) The total vote on the question of entering into an
146 executive session shall be recorded and spread upon the minutes
147 of * * * the public body.

148 (6) Any * * * vote whereby an executive session is declared
149 shall be applicable only to that particular meeting on that
150 particular day.

151 **SECTION 3.** Section 25-61-9, Mississippi Code of 1972, is
152 amended as follows:

153 25-61-9. (1) Records furnished to public bodies by third
154 parties which contain trade secrets or confidential commercial or



155 financial information shall not be subject to inspection,
156 examination, copying or reproduction under this chapter until
157 notice to * * * third parties has been given, but * * * the
158 records shall be released within a reasonable period of time
159 unless the * * * third parties * * * have obtained a court order
160 protecting * * * the records as confidential.

161 (2) If any public record which is held to be exempt from
162 disclosure pursuant to this chapter contains material which is not
163 exempt pursuant to this chapter, the public body shall separate
164 the exempt material and make the nonexempt material available for
165 examination * * * or copying, or both, as provided for in this
166 chapter.

167 (3) Trade secrets and confidential commercial and financial
168 information of a proprietary nature developed by a college * * *,
169 university or public hospital under contract with a firm,
170 business, partnership, association, corporation, individual or
171 other like entity shall not be subject to inspection, examination,
172 copying or reproduction under this chapter.

173 (4) Misappropriation of a trade secret shall be governed by
174 the provisions of the Mississippi Uniform Trade Secrets Act,
175 Sections 75-26-1 through 75-26-19.

176 (5) A waste minimization plan and any updates developed by
177 generators and facility operators under the Mississippi
178 Comprehensive Multimedia Waste Minimization Act of 1990 shall be



179 retained at the facility and shall not be subject to inspection,
180 examination, copying or reproduction under this chapter.

181 (6) Data processing software obtained by an agency under a
182 licensing agreement that prohibits its disclosure and which
183 software is a trade secret, as defined in Section 75-26-3, and
184 data processing software produced by a public body which is
185 sensitive must not be subject to inspection, copying or
186 reproduction under this chapter.

187 As used in this subsection, "sensitive" means only those
188 portions of data processing software, including the specifications
189 and documentation, used to:

190 (a) Collect, process, store, and retrieve information
191 which is exempt under this chapter.

192 (b) Control and direct access authorizations and
193 security measures for automated systems.

194 (c) Collect, process, store, and retrieve information,
195 disclosure of which would require a significant intrusion into the
196 business of the public body.

197 **SECTION 4.** Section 25-61-11, Mississippi Code of 1972, is
198 amended as follows:

199 25-61-11. The provisions of this chapter shall not be
200 construed to conflict with, amend, repeal or supersede any
201 constitutional * * * law, state or federal statutory law, or
202 decision of a court of this state or the United States which at
203 the time of this chapter is effective or thereafter specifically



204 declares a public record to be confidential or privileged, or
205 provides that a public record shall be exempt from the provisions
206 of this chapter.

207 **SECTION 5.** Section 25-61-12, Mississippi Code of 1972, is
208 amended as follows:

209 25-61-12. (1) The home address, any telephone number of a
210 privately paid account or other private information of any law
211 enforcement officer, criminal investigator, judge or district
212 attorney or the spouse or child of * * * the law enforcement
213 officer, criminal investigator, judge or district attorney shall
214 be exempt from the Mississippi Public Records Act of 1983. This
215 exemption does not apply to any court transcript or recording if
216 given under oath and not otherwise excluded by law.

217 (2) (a) When in the possession of a law enforcement agency,
218 investigative reports shall be exempt from the provisions of this
219 chapter; however, a law enforcement agency, in its discretion, may
220 choose to make public all or any part of any investigative report.

221 (b) Nothing in this chapter shall be construed to
222 prevent any and all public bodies from having among themselves a
223 free flow of information for the purpose of achieving a
224 coordinated and effective detection and investigation of unlawful
225 activity. Where the confidentiality of records covered by this
226 section is being determined in a private hearing before a judge
227 under Section 25-61-13, the public body may redact or separate
228 from * * * the records the identity of confidential informants or



229 the identity of the person or persons under investigation or other
230 information other than the nature of the incident, time, date and
231 location.

232 (c) Nothing in this chapter shall be construed to
233 exempt from public disclosure a law enforcement incident report.
234 An incident report shall be a public record. A law enforcement
235 agency may release information in addition to the information
236 contained in the incident report.

237 (d) Nothing in this chapter shall be construed to
238 require the disclosure of information that would reveal the
239 identity of the victim.

240 (3) Personal information of victims, including victim impact
241 statements and letters of support on behalf of victims that are
242 contained in records on file with the Mississippi Department of
243 Corrections and State Parole Board shall be exempt from the
244 provisions of this chapter.

245 (4) Records of a public hospital board relating to the
246 purchase or sale of medical or other practices or other business
247 operations, and the recruitment of physicians and other health
248 care professionals, shall be exempt from the provisions of this
249 chapter while the recruiting or negotiation is ongoing, but the
250 records shall be available upon execution of an employment
251 agreement or contract.

252 **SECTION 6.** Section 41-13-10, Mississippi Code of 1972, is
253 amended as follows:



254 41-13-10. For purposes of Sections 41-13-10 through
255 41-13-47, the following words shall have the meanings ascribed
256 herein, unless the context otherwise requires:

257 (a) "Administrator" * * * means the chief
258 administrative official and executive officer of a community
259 hospital selected by the board of trustees of * * * the community
260 hospital.

261 (b) "Board of trustees" * * * means the board appointed
262 pursuant to Section 41-13-29, to operate a community hospital.

263 (c) "Community hospital" * * * means any hospital,
264 nursing home * * * or related health facilities or programs,
265 including, without limitation, ambulatory surgical facilities,
266 intermediate care facilities, after-hours clinics, home health
267 agencies and rehabilitation facilities, established and acquired
268 by boards of trustees or by one or more owners which is governed,
269 operated and maintained by a board of trustees.

270 (d) "Owner" * * * means any board of supervisors of any
271 county having an ownership interest in any community hospital or
272 leased facility on behalf of the county or on behalf of any
273 supervisors district, judicial district or election district of
274 the county and * * * also means any governing council or board of
275 any municipality having an ownership interest in any community
276 hospital or leased facility.

277 (e) "Leased facility" * * * means a hospital, nursing
278 home or related health facilities which an owner has leased to an



279 individual, partnership, corporation, other owner or board of
280 trustees for a term not in excess of fifty (50) years, conditioned
281 upon the facility continuing to operate on a nonprofit basis. A
282 leased facility shall not be deemed or considered to be a
283 community hospital except for purposes of Sections 41-13-19
284 through 41-13-25, and shall not be subject to the statutory
285 requirements placed on community hospitals except to the extent as
286 may be specifically required by the terms of the applicable lease
287 agreement. However, in situations where another community
288 hospital, acting through its board of trustees, is the lessee of a
289 leased facility, the leased facility shall remain subject to this
290 chapter and other laws applicable to community hospitals, except
291 that the owners of the lessee shall have sole authority to appoint
292 the board of trustees for the leased facility, which shall be the
293 same board of trustees as appointed under Section 41-13-29 for the
294 lessee community hospital.

295 (f) "Service area" means that area as determined by a
296 board of trustees by its patient origin studies.

297 **SECTION 7.** Section 41-13-29, Mississippi Code of 1972, is
298 amended as follows:

299 41-13-29. (1) The owners are hereby authorized to appoint
300 trustees for the purpose of operating and governing community
301 hospitals and may remove a trustee after appointment for good
302 cause shown. * * * To be eligible for appointment, an appointee
303 must be an adult legal * * * resident of the county which has an



304 ownership interest in * * * the community hospital or the
305 county * * * in which the municipality or other political
306 subdivision holding the ownership interest in the community
307 hospital is located. The authority to appoint trustees shall not
308 apply to leased facilities, unless specifically reserved by the
309 owner in the applicable lease agreement. The board of trustees
310 shall consist of not more than seven (7) members nor less than
311 five (5) members, except where specifically authorized by statute,
312 and shall be appointed by the respective owners on a pro rata
313 basis comparable to the ownership interests in the community
314 hospital. Where * * * the community hospital is owned solely by a
315 county, or any supervisors districts, judicial districts or
316 election district of a county, or by a municipality, the trustees
317 shall be residents of the owning entity. Trustees for municipally
318 owned community hospitals shall be appointed by the * * *
319 governing authority of * * * the municipality. Trustees for a
320 community hospital owned by a county shall be appointed by the
321 board of supervisors with each supervisor having the right to
322 nominate one (1) trustee from his district or from the county at
323 large. Appointments exceeding five (5) in number shall be from
324 the county at large. Trustees for a community hospital owned
325 solely by supervisors districts, judicial districts or election
326 district of a county, shall be appointed by the board of
327 supervisors of * * * the county from nominees submitted by the



328 supervisor * * * or supervisors representing the owner
329 district * * * or districts.

330 (2) (a) Initially the board of trustees shall be appointed
331 as follows: one (1) for a term of one (1) year, one (1) for a
332 term of two (2) years, one (1) for a term of three (3) years, one
333 (1) for a term of four (4) years, and one (1) for a term of five
334 (5) years. Appointments exceeding five (5) in number shall be for
335 terms of four (4) and five (5) years, respectively. Thereafter,
336 all terms shall be for five (5) years. No community hospital
337 trustee holding office on July 1, 1982, shall be affected by this
338 provision, but * * * the terms shall be filled at the expiration
339 thereof according to the provisions of this section, provided,
340 however, that any other specific appointment procedures presently
341 authorized shall likewise not be affected by the terms hereof.
342 Any vacancy on the board of trustees shall be filled within ninety
343 (90) days by appointment by the applicable owner for the remainder
344 of the unexpired term.

345 (b) From and after July 1, 2015, to be eligible for
346 appointment, an appointee must have no felony convictions, possess
347 at least a high school diploma or the equivalent, owe no
348 outstanding debt to the community hospital, and not be a plaintiff
349 in any pending lawsuit against the community hospital.

350 (3) (a) Any community hospital erected, owned, maintained
351 and operated by any county located in the geographical center of
352 the State of Mississippi and in which State Highways No. 12 and



353 No. 35 intersect, shall be operated by a board of trustees of five
354 (5) members who have the qualifications set forth in this section
355 to be appointed by the board of supervisors from the county at
356 large, one (1) for a term of one (1) year, one (1) for a term of
357 two (2) years, one (1) for a term of three (3) years, one (1) for
358 a term of four (4) years, and one (1) for a term of five (5)
359 years. Thereafter all * * * trustees shall be appointed from the
360 county at large for a period of five (5) years.

361 (b) Any community hospital erected, owned, maintained
362 and operated by any county situated in the Yazoo-Mississippi Delta
363 Levee District and bordering on the Mississippi River and having a
364 population of not less than forty-five thousand (45,000) and
365 having an assessed valuation of not less than Thirty Million
366 Dollars (\$30,000,000.00) for the year 1954, shall be operated by a
367 board of trustees which may consist of not more than eleven (11)
368 members who have the qualifications set forth in this section.

369 (c) Any hospital erected, owned, maintained and
370 operated by any county having two (2) judicial districts, which is
371 traversed by U.S. Interstate Highway 59, which intersects Highway
372 84 therein, shall be operated by a board of trustees which shall
373 consist of seven (7) members who have the qualifications set forth
374 in this section. The first seven (7) members appointed under
375 authority of this paragraph shall be appointed by the board of
376 supervisors for terms as follows:



377 Each supervisor of Supervisors_u Districts One and Two shall
378 nominate and the board of supervisors shall appoint one (1) person
379 from each said beat for a one-year term. Each supervisor of
380 Supervisors_u Districts Three and Four shall nominate and the board
381 of supervisors shall appoint one (1) person from each * * * beat
382 for a two-year term. The supervisor of Supervisors_u District Five
383 shall nominate and the board of supervisors shall appoint one (1)
384 person from * * * the beat for a three-year term. The medical
385 staff at the hospital shall submit a list of four (4) nominees and
386 the supervisors shall appoint two (2) trustees from * * * the list
387 of nominees, one (1) for a three-year term and one (1) for a
388 one-year term. Thereafter, as the terms of the board of trustee
389 members authorized by this paragraph expire, all but the trustee
390 originally appointed from the medical staff nominees for a
391 one-year term shall be appointed by the board of supervisors for
392 terms of three (3) years. The term of the trustee originally
393 appointed from the medical staff nominees by the board of
394 supervisors for a term of one (1) year shall remain a term of one
395 (1) year and shall thereafter be appointed for a term of one (1)
396 year. The two (2) members appointed from medical staff nominees
397 shall be appointed from a list of two (2) nominees for each * * *
398 position to be submitted by the medical staff of the hospital for
399 each vacancy to be filled. It is the intent of the Legislature
400 that the board of trustees which existed prior to July 1, 1985,
401 was abolished by amendment to this section under Section 5,



402 Chapter 511, Laws of 1985, and * * * the amendment authorized the
403 appointment of a new board of trustees on or after July 1, 1985,
404 in the manner provided in this paragraph. Any member of the board
405 of trustees which existed * * * before July 1, 1985, who has the
406 qualifications set forth in this section shall be eligible for
407 reappointment subject to the provisions of this paragraph.

408 (d) Any community hospital erected, owned, maintained
409 and operated by any county bordering on the Mississippi River
410 having two (2) judicial districts, wherein U.S. Highway 61 and
411 Mississippi Highway 8 intersect, lying wholly within a levee
412 district, shall be operated by a board of trustees which may
413 consist of not more than nine (9) members who have the
414 qualifications set forth in this section.

415 (e) Any community hospital system owned, maintained and
416 operated by any county bordering on the Gulf of Mexico and the
417 State of Alabama shall be operated by a board of trustees
418 constituted as follows: seven (7) members shall be selected as
419 provided in subsection (1) of this section and the remaining
420 members shall be the chiefs of staff at those hospitals which are
421 a part of the hospital system; the members must have the
422 qualifications set forth in this section. The term of the chiefs
423 of staff on the board of trustees shall coincide with their
424 service as chiefs of staff at their respective hospitals.

425 (4) Any community hospital owned, maintained and operated by
426 any county wherein Mississippi Highways 16 and 19 intersect,



427 having a land area of five hundred sixty-eight (568) square miles,
428 and having a population in excess of twenty-three thousand seven
429 hundred (23,700) according to the 1980 federal decennial census,
430 shall be operated by a board of trustees of five (5) members who
431 have the qualifications set forth in this section, one (1) of whom
432 shall be elected by the qualified electors of each supervisors
433 district of the county in the manner provided herein. Each member
434 so elected shall be a resident and qualified elector of the
435 district from which he is elected. The first elected members of
436 the board of trustees shall be elected at the regular general
437 election held on November 4, 1986. At * * * the election, the
438 members of the board from Supervisors Districts One and Two shall
439 be elected for a term of six (6) years; members of the board from
440 Supervisors Districts Three and Four shall be elected for a term
441 of two (2) years; and the member of the board from Supervisors
442 District Five shall be elected for a term of four (4) years. Each
443 subsequent member of the board shall be elected for a term of six
444 (6) years at the same time as the general election in which the
445 member of the county board of education representing the same
446 supervisors district is elected. All members of the board shall
447 take office on the first Monday of January following the date of
448 their election. The terms of all seven (7) appointed members
449 of * * * the board of trustees holding office on the effective
450 date of this act shall expire on the date that the first elected
451 members of the board take office. The board of trustees provided



452 for herein shall not lease or sell the community hospital property
453 under its jurisdiction unless the board of supervisors of the
454 county calls for an election on the proposition and a majority
455 voting in * * * the election shall approve * * * the lease or
456 sale.

457 The members of the board of trustees provided for in this
458 subsection shall be compensated a per diem and reimbursed for
459 their expenses and mileage in the same amount and subject to the
460 same restrictions provided for members of the county board of
461 education in Section 37-5-21 and may, at the discretion of the
462 board, choose to participate in any hospital medical benefit plan
463 which may be in effect for hospital employees. Any member of the
464 board of trustees choosing to participate in * * * the plan shall
465 pay the full cost of his participation in the plan so that no
466 expenditure of hospital funds is required.

467 The name of any qualified elector who is a candidate
468 for * * * the community hospital board of trustees shall be placed
469 on the ballot used in the general elections by the county election
470 commissioners, * * * if the candidate files with * * * the county
471 election commissioners, not more than ninety (90) days and not
472 less than thirty (30) days * * * before the date of * * * the
473 general election, a petition of nomination signed by not less than
474 fifty (50) qualified electors of the county residing within each
475 supervisors district. The candidate in each supervisors district



476 who receives the highest number of votes cast in the district
477 shall be declared elected.

478 (5) A board of trustees provided for herein may, in its
479 discretion, where funds are available, compensate each trustee per
480 diem in the amount of at least the amount established by Section
481 25-3-69 up to the maximum amount of not more than One Hundred
482 Fifty Dollars (\$150.00) for each meeting of * * * the board of
483 trustees or meeting of a committee established by the board of
484 trustees where the trustee was in attendance, and in addition
485 thereto provide meals at * * * the meetings and compensate each
486 member attending travel expenses at the rate authorized by Section
487 25-3-41 for actual mileage traveled to and from the place of
488 meeting.

489 (6) The owner which appointed a trustee may likewise remove
490 him from office by majority vote for failure to attend at least
491 fifty percent (50%) of the regularly scheduled meetings of * * *
492 the board during the twelve-month period preceding * * * the vote,
493 or for violation of any statute relating to the responsibilities
494 of his office, based upon the recommendation of a majority of the
495 remaining trustees.

496 (7) For community hospitals located in a county having a
497 population of less than one hundred thousand (100,000) according
498 to the most recent federal decennial census, the members of the
499 board of trustees, administrator and any other officials of the
500 community hospital as may be deemed necessary or proper by the



501 board of trustees shall be under bond in an amount not less than
502 Ten Thousand Dollars (\$10,000.00) nor more than One Hundred
503 Thousand Dollars (\$100,000.00) with some surety company authorized
504 to do business in the State of Mississippi to faithfully perform
505 the duties of his office. For community hospitals located in a
506 county having a population of one hundred thousand (100,000) or
507 more according to the most recent federal decennial census, the
508 bond shall be in an amount not less than Fifty Thousand Dollars
509 (\$50,000.00) nor more than Five Hundred Thousand Dollars
510 (\$500,000.00). Premiums for * * * the bonds shall be paid from
511 funds of the community hospital.

512 **SECTION 8.** Section 41-13-35, Mississippi Code of 1972, is
513 amended as follows:

514 41-13-35. (1) The board of trustees of any community
515 hospital shall have full authority to appoint an administrator,
516 who shall not be a member of the board of trustees, and to
517 delegate reasonable authority to * * * the administrator for the
518 operation and maintenance of * * * the hospital and all property
519 and facilities otherwise appertaining thereto.

520 (2) The board of trustees shall have full authority to
521 select from its members, officers and committees and, by
522 resolution or through the board bylaws, to delegate to * * * the
523 officers and committees reasonable authority to carry out and
524 enforce the powers and duties of the board of trustees during the
525 interim periods between regular meetings of the board of trustees;



526 provided, however, that any * * * action taken by an officer or
527 committee shall be subject to review by the board, and actions may
528 be withdrawn or nullified at the next subsequent meeting of the
529 board of trustees if the action is in excess of delegated
530 authority.

531 (3) The board of trustees shall be responsible for governing
532 the community hospital under its control and shall make and
533 enforce staff and hospital bylaws and * * * rules and regulations
534 necessary for the administration, government, maintenance
535 and * * * expansion or contraction of * * * the hospitals. The
536 board of trustees shall keep meaningful and accurate minutes of
537 its official business and shall comply with Section 41-9-68.

538 (4) The decisions of * * * the board of trustees of the
539 community hospital shall be valid and binding unless expressly
540 prohibited by applicable statutory or constitutional provisions.

541 (5) The power of the board of trustees shall specifically
542 include, but not be limited to, the following authority:

543 (a) To deposit and invest funds of the community
544 hospital in accordance with Section 27-105-365;

545 (b) To establish * * * equitable wage and salary
546 programs and other employment benefits as may be deemed expedient
547 or proper, and in so doing, to expend reasonable funds for * * *
548 employee salary and benefits. Allowable employee programs shall
549 specifically include, but not be limited to, medical benefit,
550 life, accidental death and dismemberment, disability, retirement



551 and other employee coverage plans. The hospital may offer and
552 fund * * * the programs directly or by contract with any third
553 party and shall be authorized to take all actions necessary to
554 implement, administer and operate * * * the plans, including
555 payroll deductions for * * * the plans;

556 (c) To authorize employees to attend and to pay actual
557 expenses incurred by employees while engaged in hospital business
558 or in attending recognized educational or professional meetings;

559 (d) To enter into loan or scholarship agreements with
560 employees or students to provide educational assistance
561 where * * * the student or employee agrees to work for a
562 stipulated period of time for the hospital;

563 (e) To devise and implement employee incentive
564 programs;

565 (f) To recruit and financially assist physicians and
566 other health care practitioners in establishing, or relocating
567 practices within the service area of the community hospital,
568 including, without limitation, direct and indirect financial
569 assistance, loan agreements, agreements guaranteeing minimum
570 incomes for a stipulated period from opening of the practice and
571 providing free office space or reduced rental rates for office
572 space where * * * the recruitment would directly benefit the
573 community hospital * * * or the health and welfare of the citizens
574 of the service area;



575 (g) To contract by way of lease, lease-purchase or
576 otherwise, with any agency, department or other office of
577 government or any individual, partnership, corporation, owner,
578 other board of trustees, or other health care facility, for the
579 providing of property, equipment or services by or to the
580 community hospital or other entity or regarding any facet of the
581 construction, management, funding or operation of the community
582 hospital or any division or department thereof, or any related
583 activity, including, without limitation, shared management
584 expertise or employee insurance and retirement programs, and to
585 terminate said contracts when deemed in the best interests of the
586 community hospital;

587 (h) To file suit on behalf of the community hospital to
588 enforce any right or claims accruing to the hospital and to defend
589 and/or settle claims against the community hospital and/or its
590 board of trustees;

591 (i) To sell or otherwise dispose of any chattel
592 property of the community hospital by any method deemed
593 appropriate by the board where * * * the disposition is consistent
594 with the hospital purposes or where * * * the property is deemed
595 by the board to be surplus or otherwise unneeded;

596 (j) To let contracts for the construction, remodeling,
597 expansion or acquisition, by lease or purchase, of hospital or
598 health care facilities, including real property, within the
599 service area for community hospital purposes where such may be



600 done with operational funds without encumbrancing the general
601 funds of the county or municipality, provided that any contract
602 for the purchase of real property must be ratified by the owner;

603 (k) To borrow money and enter other financing
604 arrangements for community hospital and related purposes and to
605 grant security interests in hospital equipment and other hospital
606 assets and to pledge a percentage of hospital revenues as security
607 for * * * the financings where needed; provided that the owner
608 shall specify by resolution the maximum borrowing authority and
609 maximum percent of revenue which may be pledged by the board of
610 trustees during any given fiscal year;

611 (l) To expend hospital funds for public relations or
612 advertising programs;

613 (m) To offer the following inpatient and outpatient
614 services, after complying with applicable health planning,
615 licensure statutes and regulations, whether or not heretofore
616 offered by * * * the hospital or other similar hospitals in this
617 state and whether or not heretofore authorized to be offered,
618 long-term care, extended care, home care, after-hours clinic
619 services, ambulatory surgical clinic services, preventative health
620 care services including wellness services, health education,
621 rehabilitation and diagnostic and treatment services; to promote,
622 develop, operate and maintain a center providing care or
623 residential facilities for the aged, convalescent or handicapped;
624 and to promote, develop and institute any other services having an



625 appropriate place in the operation of a hospital offering complete
626 community health care;

627 (n) To promote, develop, acquire, operate and maintain
628 on a nonprofit basis, or on a profit basis if the community
629 hospital's share of profits is used solely for community hospital
630 and related purposes in accordance with this chapter, either
631 separately or jointly with one or more other hospitals or
632 health-related organizations, facilities and equipment for
633 providing goods, services and programs for hospitals, other health
634 care providers, and other persons or entities in need of * * * the
635 goods, services and programs and, in doing so, to provide for
636 contracts of employment or contracts for services and ownership of
637 property on terms that will protect the public interest;

638 (o) To establish and operate medical offices, child
639 care centers, wellness or fitness centers and other facilities and
640 programs which the board determines are appropriate in the
641 operation of a community hospital for the benefit of its
642 employees, personnel and/or medical staff which shall be operated
643 as an integral part of the hospital and which may, in the
644 direction of the board of trustees, be offered to the general
645 public. If * * * the programs are not established in existing
646 facilities or constructed on real estate previously acquired by
647 the owners, the board of trustees shall also have authority to
648 acquire, by lease or purchase, * * * the facilities and real
649 property within the service area, whether or not adjacent to



650 existing facilities, provided that any contract for the purchase
651 of real property shall be ratified by the owner. The trustees
652 shall lease any * * * medical offices to members of the medical
653 staff at rates deemed appropriate and may, in its discretion,
654 establish rates to be paid for the use of other facilities or
655 programs by its employees or personnel or members of the public
656 whom the trustees may determine may properly use * * * the other
657 facilities or programs;

658 (p) Provide, at its discretion, ambulance service
659 and/or to contract with any third party, public or private, for
660 the providing of * * * the service;

661 (q) Establish a fair and equitable system for the
662 billing of patients for care or users of services received through
663 the community hospital, which in the exercise of the board of
664 trustees' prudent fiscal discretion, may allow for rates to be
665 classified according to the potential usage by an identified group
666 or groups of patients of the community hospital's services and may
667 allow for standard discounts where the discount is designed to
668 reduce the operating costs or increase the revenues of the
669 community hospital. * * * The billing system may also allow for
670 the payment of charges by means of a credit card or similar device
671 and allow for payment of administrative fees as may be regularly
672 imposed by a banking institution or other credit service
673 organization for the use of * * * the cards;



674 (r) To establish as an organizational part of the
675 hospital or to aid in establishing as a separate entity from the
676 hospital, hospital auxiliaries designed to aid the hospital, its
677 patients, and * * * families and visitors of patients, and when
678 the auxiliary is established as a separate entity from the
679 hospital, the board of trustees may cooperate with the auxiliary
680 in its operations as the board of trustees deems appropriate; and

681 (s) To make any agreements or contracts with the
682 federal government or any agency thereof, the State of Mississippi
683 or any agency thereof, and any county, city, town, supervisors
684 district or election district within this state, jointly or
685 separately, for the maintenance of charity facilities.

686 (6) No board of trustees of any community hospital may
687 accept any grant of money or other thing of value from any
688 not-for-profit or for-profit organization established for the
689 purpose of supporting health care in the area served by the
690 facility unless two-thirds (2/3) of the trustees vote to accept
691 the grant.

692 (7) No board of trustees, individual trustee or any other
693 person who is an agent or servant of the trustees of any community
694 hospital shall have any personal financial interest in any
695 not-for-profit or for-profit organization which, regardless of its
696 stated purpose of incorporation, provides assistance in the form
697 of grants of money or property to community hospitals or provides



698 services to community hospitals in the form of performance of
699 functions normally associated with the operations of a hospital.

700 **SECTION 9.** Section 41-13-47, Mississippi Code of 1972, is
701 amended as follows:

702 41-13-47. On or before the first Monday in September of each
703 year, the said board of trustees shall make, enter on its minutes
704 and file with the owner or owners, separately or jointly
705 interested in said hospital, a proposed budget based on
706 anticipated income and expenditures for the ensuing fiscal
707 year. * * * The budget, as submitted or amended, shall be
708 approved by the said owner or owners, as the case may be, which
709 approval shall be evidenced by a proper order recorded upon the
710 minutes of each * * * owner.

711 On or before the first Monday in March of each year, said
712 board of trustees shall also make, enter on its minutes and file
713 with * * * the owner or owners a full fiscal year report which
714 shall contain a complete and correct accounting of all funds
715 received and expended for all hospital purposes.

716 **SECTION 10.** Section 27-104-155, Mississippi Code of 1972, is
717 amended as follows:

718 27-104-155. (1) The Department of Finance and
719 Administration shall develop and operate a searchable website that
720 includes information on expenditures of state funds from all
721 funding sources. The website shall have a unique and simplified
722 website address, and the department shall require each agency that



723 maintains a generally accessible Internet site or for which a
724 generally accessible Internet site is maintained to include a link
725 on the front page of the agency's Internet site to the searchable
726 website required under this section.

727 (a) With regard to disbursement of funds, the website
728 shall include, but not be limited to:

729 (i) The name and principal location of the entity
730 or recipients of the funds, excluding release of information
731 relating to an individual's place of residence, the identity of
732 recipients of state or federal assistance payments, and any other
733 information deemed confidential by state or federal law relating
734 to privacy rights;

735 (ii) The amount of state funds expended;

736 (iii) A descriptive purpose of the funding action
737 or expenditure;

738 (iv) The funding source of the expenditure;

739 (v) The budget program or activity of the
740 expenditure;

741 (vi) The specific source of authority and
742 descriptive purpose of the expenditure, to include a link to the
743 funding authorization document(s) in a searchable PDF form;

744 (vii) The specific source of authority for the
745 expenditure including, but not limited to, a grant, subgrant,
746 contract, or the general discretion of the agency director,
747 provided that if the authority is a grant, subgrant or contract,



748 the website entry shall include a grant, subgrant or contract
749 number or similar information that clearly identifies the specific
750 source of authority. The information required under this
751 paragraph includes data relative to tax exemptions and credits;

752 (viii) The expending agency;

753 (ix) The type of transaction;

754 (x) The expected performance outcomes achieved for
755 the funding action or expenditure;

756 (xi) Links to any state audit or report relating
757 to the entity or recipient of funds or the budget program or
758 activity or agency; and

759 (xii) Any other information deemed relevant by the
760 Department of Finance and Administration.

761 (b) When the expenditure of state funds involves the
762 expenditure of bond proceeds, the searchable website must include
763 a clear, detailed description of the purpose of the bonds, a
764 current status report on the project or projects being financed by
765 the bonds, and a current status report on the payment of the
766 principal and interest on the bonds.

767 (c) The searchable website must include access to an
768 electronic summary of each grant, including amendments; subgrant,
769 including amendments; contract, including amendments; and payment
770 voucher that includes, wherever possible, a hyperlink to the
771 actual document in a searchable PDF format, subject to the
772 restrictions in paragraph (d) of this section. The Department of



773 Finance and Administration may cooperate with other agencies to
774 accomplish the requirements of this paragraph.

775 (d) Nothing in Sections 27-104-151 through 27-104-159
776 shall permit or require the disclosure of trade secrets or other
777 proprietary information, including confidential vendor
778 information, or any other information that is required to be
779 confidential by state or federal law.

780 (e) The information available from the searchable
781 website must be updated no later than fourteen (14) days after the
782 receipt of data from an agency, and the Department of Finance and
783 Administration shall require each agency to provide to the
784 department access to all data that is required to be accessible
785 from the searchable website within fourteen (14) days of each
786 expenditure, grant award, including amendments; subgrant,
787 including amendments; or contract, including amendments; executed
788 by the agency.

789 (f) The searchable website must include all information
790 required by this section for all transactions that are initiated
791 in fiscal year 2015 or later. In addition, all information that
792 is included on the searchable website from the date of the
793 inception of the website until July 1, 2014, must be maintained on
794 the website according to the requirements of this section before
795 July 1, 2014, and remain accessible for ten (10) years from the
796 date it was originally made available. All data on the searchable



797 website must remain accessible to the public for a minimum of ten
798 (10) years.

799 (2) The Board of Trustees of State Institutions of Higher
800 Learning shall create the IHL Accountability and Transparency
801 website to include its executive office and the institutions of
802 higher learning no later than July 1, 2012. This website shall:

803 (a) Provide access to existing financial reports,
804 financial audits, budgets and other financial documents that are
805 used to allocate, appropriate, spend and account for appropriated
806 funds;

807 (b) Have a unique and simplified website address;

808 (c) Be directly accessible via a link from the main
809 page of the Department of Finance and Administration website, as
810 well as the IHL website and the main page of the website of each
811 institution of higher learning;

812 (d) Include other links, features or functionality that
813 will assist the public in obtaining and reviewing public financial
814 information;

815 (e) Report expenditure information currently available
816 within these enterprise resource planning (ERP) computer systems;
817 and

818 (f) Design the reporting format using the existing
819 capabilities of these ERP computer systems.

820 (3) The Mississippi Community College Board shall create the
821 Community and Junior Colleges Accountability and Transparency



822 website to include its executive office and the community and
823 junior colleges no later than July 1, 2012. This website shall:

824 (a) Provide access to existing financial reports,
825 financial audits, budgets and other financial documents that are
826 used to allocate, appropriate, spend and account for appropriated
827 funds;

828 (b) Have a unique and simplified website address;

829 (c) Be directly accessible via a link from the main
830 page of the Department of Finance and Administration website, as
831 well as the Mississippi Community College Board website and the
832 main page of the website of each community and junior college;

833 (d) Include other links, features or functionality that
834 will assist the public in obtaining and reviewing public financial
835 information;

836 (e) Report expenditure information currently available
837 within the computer system of each community and junior college;
838 and

839 (f) Design the reporting format using the existing
840 capabilities of the computer system of each community and junior
841 college.

842 (4) Each board of trustees of a community hospital, as
843 defined in Section 41-13-10, shall create its own Accountability
844 and Transparency website no later than January 1, 2016. This
845 website shall:



- 846 (a) Provide access to existing financial reports,
847 financial audits, budgets and other financial documents that are
848 used to allocate, appropriate, spend and account for public funds;
849 (b) Have a unique and simplified website address;
850 (c) Include links, features or functionality that will
851 assist the public in obtaining and reviewing public financial
852 information;
853 (d) Report expenditure information currently available
854 within the computer system of each community hospital; and
855 (d) Design the reporting format using the existing
856 capabilities of the computer system of each community hospital.

857 **SECTION 11.** Section 41-9-68, Mississippi Code of 1972, is
858 amended as follows:

859 41-9-68. Hospital records maintained by public
860 hospitals * * * shall be exempt from the provisions of the
861 Mississippi Public Records Act of 1983. The official minutes of
862 the board of trustees of a public hospital, financial reports
863 filed as required by statute with the board of supervisors,
864 municipal governing authority or any other agency of government,
865 executed employment contracts between the hospital and a health
866 care professional, or any other record maintained by public
867 hospitals that does not fall within the definition of the term
868 "hospital records" as the term "hospital records" is defined in
869 Section 41-9-61, shall not be exempt from the provisions of the
870 Mississippi Public Records Act of 1983.



871 **SECTION 12.** This act shall take effect and be in force from
872 and after July 1, 2015.

