

By: Senator(s) Wiggins, Dawkins, Horhn,
Jackson (11th), Jones, Jordan

To: Accountability,
Efficiency, Transparency

SENATE BILL NO. 2407
(As Sent to Governor)

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 FOR THE PURPOSES OF THE OPEN MEETINGS ACT; TO AMEND
4 SECTION 25-41-7, MISSISSIPPI CODE OF 1972, TO CLARIFY THE ABILITY
5 OF THE BOARD OF TRUSTEES TO GO INTO EXECUTIVE SESSION FOR MATTERS
6 CONCERNING THE OPERATION OF THE HOSPITAL AS A BUSINESS ENTITY; TO
7 AMEND SECTION 25-61-9, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
8 RECORDS CONTAINING INFORMATION CONCERNING TRADE SECRETS AND
9 CONFIDENTIAL COMMERCIAL AND FINANCIAL INFORMATION OF A PROPRIETARY
10 NATURE DEVELOPED BY A PUBLIC HOSPITAL ARE NOT SUBJECT TO THE
11 MISSISSIPPI PUBLIC RECORDS ACT OF 1983; TO AMEND SECTION 25-61-11,
12 MISSISSIPPI CODE OF 1972, TO CLARIFY THAT FEDERAL STATUTORY LAW
13 IMPOSING CONFIDENTIALITY UPON A RECORD WILL EXEMPT THE RECORD FROM
14 THE MISSISSIPPI PUBLIC RECORDS ACT OF 1983; TO AMEND SECTION
15 25-61-12, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT RECORDS
16 RELATING TO THE BUSINESS DEVELOPMENT OF A PUBLIC HOSPITAL ARE NOT
17 SUBJECT TO THE MISSISSIPPI PUBLIC RECORDS ACT OF 1983; TO AMEND
18 SECTION 41-13-29, MISSISSIPPI CODE OF 1972, TO REVISE THE
19 QUALIFICATIONS OF PERSONS TO BE APPOINTED TO THE BOARD OF TRUSTEES
20 OF A COMMUNITY HOSPITAL; TO AUTHORIZE THE HOSPITAL OWNER TO REMOVE
21 A TRUSTEE FOR GOOD CAUSE SHOWN; TO IMPOSE A GREATER RANGE FOR THE
22 PERFORMANCE BOND TO BE SECURED ON BEHALF OF TRUSTEES OF A
23 COMMUNITY HOSPITAL; TO AMEND SECTION 27-104-155, MISSISSIPPI CODE
24 OF 1972, TO REQUIRE THE OWNER OF A COMMUNITY HOSPITAL TO CREATE
25 AND MAINTAIN A TRANSPARENCY AND ACCOUNTABILITY WEBSITE FOR THE
26 HOSPITAL; TO AMEND SECTION 41-9-68, MISSISSIPPI CODE OF 1972, TO
27 CLARIFY THE PUBLIC HOSPITAL RECORDS THAT ARE EXEMPT FROM THE
28 MISSISSIPPI PUBLIC RECORDS ACT OF 1983; TO CREATE NEW SECTIONS
29 41-13-49 AND 41-13-51, MISSISSIPPI CODE OF 1972, TO REQUIRE ANY
30 DEFINED BENEFIT RETIREMENT PLAN MAINTAINED BY A COMMUNITY HOSPITAL
31 FOR ITS EMPLOYEES, WHETHER THE MEMBERSHIP OF THE PLAN IS OPEN OR
32 CLOSED TO NEW MEMBERS, TO DISCLOSE CERTAIN INFORMATION TO THE
33 PUBLIC AND PROVIDE CERTAIN INFORMATION TO PARTICIPANTS; TO REQUIRE
34 THE ADMINISTRATOR OF THE RETIREMENT PLAN TO DISSEMINATE TO THE



35 PUBLIC A SUMMARY PLAN DESCRIPTION, ANNUAL DISCLOSURE OF FINANCIAL
36 AND ACTUARIAL STATUS, AND AN ANNUAL REPORT; TO REQUIRE THE
37 ADMINISTRATOR OF THE RETIREMENT PLAN TO FURNISH TO EACH
38 PARTICIPANT AND BENEFICIARY WHO IS RECEIVING BENEFITS UNDER THE
39 PLAN CERTAIN INFORMATION ABOUT THE PLAN; AND FOR RELATED PURPOSES.

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

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

43 25-41-3. For purposes of this chapter, the following words
44 shall have the meaning ascribed herein, to wit:

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

58 (i) The judiciary, including all jury
59 deliberations;

60 * * *

61 (* * *ii) Law enforcement officials;

62 (* * *iii) The military;



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

64 (* * *v) The Workers' Compensation Commission;

65 (* * *vi) Legislative subcommittees and

66 legislative conference committees;

67 (* * *vii) The arbitration council established in

68 Section 69-3-19;

69 (* * *viii) License revocation, suspension and

70 disciplinary proceedings held by the Mississippi State Board of

71 Dental Examiners; and

72 (* * *ix) Hearings and meetings of the Board of

73 Tax Appeals and of the hearing officers and the board of review of

74 the Department of Revenue as provided in Section 27-77-15.

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

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

82 25-41-7. (1) Any public body may enter into executive
83 session for the transaction of public business; * * * however, all
84 meetings of any * * * public body shall commence as an open
85 meeting, and an affirmative vote of three-fifths (3/5) of all
86 members present shall be required to declare an executive session.



87 (2) The procedure to be followed by any public body in
88 declaring an executive session shall be as follows: Any member
89 shall have the right to request by motion a closed determination
90 upon the issue of whether or not to declare an executive
91 session. * * * The motion, by majority vote, shall require the
92 meeting to be closed for a preliminary determination of the
93 necessity for executive session. No other business shall be
94 transacted until the discussion of the nature of the matter
95 requiring executive session has been completed and a vote, as
96 required in subsection (1) hereof, has been taken on the issue.

97 (3) An executive session shall be limited to matters allowed
98 to be exempted from open meetings by subsection (4) of this
99 section. The reason for holding * * * an executive session shall
100 be stated in an open meeting, and the reason so stated shall be
101 recorded in the minutes of the meeting. Nothing in this section
102 shall be construed to require that any meeting be closed to the
103 public, nor shall any executive session be used to circumvent or
104 to defeat the purposes of this chapter.

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

107 (a) Transaction of business and discussion of personnel
108 matters relating to the job performance, character, professional
109 competence, or physical or mental health of a person holding a
110 specific position, or matters relating to the terms of any
111 potential or current employment or services agreement with any



112 physicians or other employees of public hospitals, including any
113 discussion of any person applying for medical staff privileges or
114 membership with a public hospital.

115 (b) Strategy sessions or negotiations with respect to
116 prospective litigation, litigation or issuance of an appealable
117 order when an open meeting would have a detrimental effect on the
118 litigating position of the public body.

119 (c) Transaction of business and discussion regarding
120 the report, development or course of action regarding security
121 personnel, plans or devices.

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

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

126 (f) Cases of extraordinary emergency which would pose
127 immediate or irrevocable harm or damage to persons * * * or
128 property, or both, within the jurisdiction of * * * the public
129 body.

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

132 (h) Discussions between a school board and individual
133 students who attend a school within the jurisdiction of * * * the
134 school board or the parents or teachers of * * * the students
135 regarding problems of * * * the students or their parents or
136 teachers.



137 (i) Transaction of business and discussion concerning
138 the preparation of tests for admission to practice in recognized
139 professions.

140 (j) Transaction of business and discussions or
141 negotiations regarding the location, relocation or expansion of a
142 business, medical service or an industry.

143 (k) Transaction of business and discussions regarding
144 employment or job performance of a person in a specific position
145 or termination of an employee holding a specific position. The
146 exemption provided by this paragraph includes transaction of
147 business and discussion in executive session by the board of
148 trustees of a public hospital regarding any employee or medical
149 staff member or applicant for medical staff privileges and any
150 such individual's credentialing, health, performance, salary,
151 raises or disciplinary action. The exemption provided by this
152 paragraph includes the right to enter into executive session
153 concerning a line item in a budget which might affect the
154 termination of an employee or employees. All other budget items
155 shall be considered in open meetings and final budgetary adoption
156 shall not be taken in executive session.

157 (l) Discussions regarding material or data exempt from
158 the Mississippi Public Records Act of 1983 pursuant to Section
159 25-11-121.

160 (m) Transaction of business and discussion regarding
161 prospective strategic business decisions of public hospitals,



162 including without limitation, decisions to open a new service
163 line, implement capital improvements, or file applications for
164 certificates of need or determinations of nonreviewability with
165 the State Department of Health.

166 (n) Transaction of business of the boards of trustees
167 of public hospitals that would require discussion of any
168 identifiable patient information, including without limitation,
169 patient complaints, patients' accounts, patients receiving charity
170 care, or treatment that could be identified to a patient.

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

174 (6) Any * * * vote whereby an executive session is declared
175 shall be applicable only to that particular meeting on that
176 particular day.

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

179 25-61-9. (1) Records furnished to public bodies by third
180 parties which contain trade secrets or confidential commercial or
181 financial information shall not be subject to inspection,
182 examination, copying or reproduction under this chapter until
183 notice to * * * third parties has been given, but * * * the
184 records shall be released within a reasonable period of time
185 unless the * * * third parties * * * have obtained a court order
186 protecting * * * the records as confidential.



187 (2) If any public record which is held to be exempt from
188 disclosure pursuant to this chapter contains material which is not
189 exempt pursuant to this chapter, the public body shall separate
190 the exempt material and make the nonexempt material available for
191 examination * * * or copying, or both, as provided for in this
192 chapter.

193 (3) Trade secrets and confidential commercial and financial
194 information of a proprietary nature developed by a college * * *,
195 university or public hospital under contract with a firm,
196 business, partnership, association, corporation, individual or
197 other like entity shall not be subject to inspection, examination,
198 copying or reproduction under this chapter.

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

202 (5) A waste minimization plan and any updates developed by
203 generators and facility operators under the Mississippi
204 Comprehensive Multimedia Waste Minimization Act of 1990 shall be
205 retained at the facility and shall not be subject to inspection,
206 examination, copying or reproduction under this chapter.

207 (6) Data processing software obtained by an agency under a
208 licensing agreement that prohibits its disclosure and which
209 software is a trade secret, as defined in Section 75-26-3, and
210 data processing software produced by a public body which is



211 sensitive must not be subject to inspection, copying or
212 reproduction under this chapter.

213 As used in this subsection, "sensitive" means only those
214 portions of data processing software, including the specifications
215 and documentation, used to:

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

218 (b) Control and direct access authorizations and
219 security measures for automated systems.

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

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

225 25-61-11. The provisions of this chapter shall not be
226 construed to conflict with, amend, repeal or supersede any
227 constitutional * * * law, state or federal statutory law, or
228 decision of a court of this state or the United States which at
229 the time of this chapter is effective or thereafter specifically
230 declares a public record to be confidential or privileged, or
231 provides that a public record shall be exempt from the provisions
232 of this chapter.

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



235 25-61-12. (1) The home address, any telephone number of a
236 privately paid account or other private information of any law
237 enforcement officer, criminal investigator, judge or district
238 attorney or the spouse or child of * * * the law enforcement
239 officer, criminal investigator, judge or district attorney shall
240 be exempt from the Mississippi Public Records Act of 1983. This
241 exemption does not apply to any court transcript or recording if
242 given under oath and not otherwise excluded by law.

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

247 (b) Nothing in this chapter shall be construed to
248 prevent any and all public bodies from having among themselves a
249 free flow of information for the purpose of achieving a
250 coordinated and effective detection and investigation of unlawful
251 activity. Where the confidentiality of records covered by this
252 section is being determined in a private hearing before a judge
253 under Section 25-61-13, the public body may redact or separate
254 from * * * the records the identity of confidential informants or
255 the identity of the person or persons under investigation or other
256 information other than the nature of the incident, time, date and
257 location.

258 (c) Nothing in this chapter shall be construed to
259 exempt from public disclosure a law enforcement incident report.



260 An incident report shall be a public record. A law enforcement
261 agency may release information in addition to the information
262 contained in the incident report.

263 (d) Nothing in this chapter shall be construed to
264 require the disclosure of information that would reveal the
265 identity of the victim.

266 (3) Personal information of victims, including victim impact
267 statements and letters of support on behalf of victims that are
268 contained in records on file with the Mississippi Department of
269 Corrections and State Parole Board, shall be exempt from the
270 provisions of this chapter.

271 (4) Records of a public hospital board relating to the
272 purchase or sale of medical or other practices or other business
273 operations, and the recruitment of physicians and other health
274 care professionals, shall be exempt from the provisions of this
275 chapter.

276 **SECTION 6.** Section 41-13-29, Mississippi Code of 1972, is
277 amended as follows:

278 41-13-29. (1) (a) The owners are * * * authorized to
279 appoint trustees for the purpose of operating and governing
280 community hospitals. The owner of a community hospital may remove
281 a trustee after appointment for good cause shown, upon a unanimous
282 vote of all members of the governing board of the owner that
283 appointed the trustee, or upon a majority vote of the governing
284 board of the owner that appointed the trustee after a



285 recommendation from the board of trustees of the hospital that the
286 trustee be removed. * * * To be eligible for appointment, an
287 appointee must be an adult legal * * * resident of the county
288 which has an ownership interest in * * * the community hospital or
289 the county * * * in which the municipality or other political
290 subdivision holding the ownership interest in the community
291 hospital is located. The authority to appoint trustees shall not
292 apply to leased facilities, unless specifically reserved by the
293 owner in the applicable lease agreement.

294 (b) The board of trustees shall consist of not more
295 than seven (7) members nor less than five (5) members, except
296 where specifically authorized by statute, and shall be appointed
297 by the respective owners on a pro rata basis comparable to the
298 ownership interests in the community hospital. Where * * * the
299 community hospital is owned solely by a county, or any supervisors
300 districts, judicial districts or election district of a county, or
301 by a municipality, the trustees shall be residents of the owning
302 entity.

303 (c) Trustees for municipally owned community hospitals
304 shall be appointed by the * * * governing authority of * * * the
305 municipality. Trustees for a community hospital owned by a county
306 shall be appointed by the board of supervisors with each
307 supervisor having the right to nominate one (1) trustee from his
308 district or from the county at large. Appointments exceeding five
309 (5) in number shall be from the county at large. Trustees for a



310 community hospital owned solely by supervisors districts, judicial
311 districts or election district of a county, shall be appointed by
312 the board of supervisors of * * * the county from nominees
313 submitted by the supervisor * * * or supervisors representing the
314 owner district * * * or districts.

315 (2) (a) Initially the board of trustees shall be appointed
316 as follows: one (1) for a term of one (1) year, one (1) for a
317 term of two (2) years, one (1) for a term of three (3) years, one
318 (1) for a term of four (4) years, and one (1) for a term of five
319 (5) years. Appointments exceeding five (5) in number shall be for
320 terms of four (4) and five (5) years, respectively. Thereafter,
321 all terms shall be for five (5) years. No community hospital
322 trustee holding office on July 1, 1982, shall be affected by this
323 provision, but * * * the terms shall be filled at the expiration
324 thereof according to the provisions of this section, provided,
325 however, that any other specific appointment procedures presently
326 authorized shall likewise not be affected by the terms hereof.
327 Any vacancy on the board of trustees shall be filled within ninety
328 (90) days by appointment by the applicable owner for the remainder
329 of the unexpired term.

330 (b) From and after January 1, 2016, to be eligible for
331 appointment, an appointee must have no felony convictions, possess
332 at least a high school diploma or the equivalent, owe no
333 outstanding debt to the community hospital, and not be a plaintiff
334 in any pending lawsuit against the community hospital.



335 (3) (a) Any community hospital erected, owned, maintained
336 and operated by any county located in the geographical center of
337 the State of Mississippi and in which State Highways No. 12 and
338 No. 35 intersect, shall be operated by a board of trustees of five
339 (5) members who have the qualifications set forth in this section
340 to be appointed by the board of supervisors from the county at
341 large, one (1) for a term of one (1) year, one (1) for a term of
342 two (2) years, one (1) for a term of three (3) years, one (1) for
343 a term of four (4) years, and one (1) for a term of five (5)
344 years. Thereafter all * * * trustees shall be appointed from the
345 county at large for a period of five (5) years.

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

354 (c) Any hospital erected, owned, maintained and
355 operated by any county having two (2) judicial districts, which is
356 traversed by U.S. Interstate Highway 59, which intersects Highway
357 84 therein, shall be operated by a board of trustees which shall
358 consist of seven (7) members who have the qualifications set forth
359 in this section. The first seven (7) members appointed under



360 authority of this paragraph shall be appointed by the board of
361 supervisors for terms as follows:

362 Each supervisor of Supervisors_u Districts One and Two shall
363 nominate and the board of supervisors shall appoint one (1) person
364 from each said beat for a one-year term. Each supervisor of
365 Supervisors_u Districts Three and Four shall nominate and the board
366 of supervisors shall appoint one (1) person from each * * * beat
367 for a two-year term. The supervisor of Supervisors_u District Five
368 shall nominate and the board of supervisors shall appoint one (1)
369 person from * * * the beat for a three-year term. The medical
370 staff at the hospital shall submit a list of four (4) nominees and
371 the supervisors shall appoint two (2) trustees from * * * the list
372 of nominees, one (1) for a three-year term and one (1) for a
373 one-year term. Thereafter, as the terms of the board of trustee
374 members authorized by this paragraph expire, all but the trustee
375 originally appointed from the medical staff nominees for a
376 one-year term shall be appointed by the board of supervisors for
377 terms of three (3) years. The term of the trustee originally
378 appointed from the medical staff nominees by the board of
379 supervisors for a term of one (1) year shall remain a term of one
380 (1) year and shall thereafter be appointed for a term of one (1)
381 year. The two (2) members appointed from medical staff nominees
382 shall be appointed from a list of two (2) nominees for each * * *
383 position to be submitted by the medical staff of the hospital for
384 each vacancy to be filled. It is the intent of the Legislature



385 that the board of trustees which existed prior to July 1, 1985,
386 was abolished by amendment to this section under Section 5,
387 Chapter 511, Laws of 1985, and * * * the amendment authorized the
388 appointment of a new board of trustees on or after July 1, 1985,
389 in the manner provided in this paragraph. Any member of the board
390 of trustees which existed * * * before July 1, 1985, who has the
391 qualifications set forth in this section shall be eligible for
392 reappointment subject to the provisions of this paragraph.

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

400 (e) Any community hospital system owned, maintained and
401 operated by any county bordering on the Gulf of Mexico and the
402 State of Alabama shall be operated by a board of trustees
403 constituted as follows: seven (7) members shall be selected as
404 provided in subsection (1) of this section and the remaining
405 members shall be the chiefs of staff at those hospitals which are
406 a part of the hospital system; the members must have the
407 qualifications set forth in this section. The term of the chiefs
408 of staff on the board of trustees shall coincide with their
409 service as chiefs of staff at their respective hospitals.



410 (4) Any community hospital owned, maintained and operated by
411 any county wherein Mississippi Highways 16 and 19 intersect,
412 having a land area of five hundred sixty-eight (568) square miles,
413 and having a population in excess of twenty-three thousand seven
414 hundred (23,700) according to the 1980 federal decennial census,
415 shall be operated by a board of trustees of five (5) members who
416 have the qualifications set forth in this section, one (1) of whom
417 shall be elected by the qualified electors of each supervisors
418 district of the county in the manner provided herein. Each member
419 so elected shall be a resident and qualified elector of the
420 district from which he is elected. The first elected members of
421 the board of trustees shall be elected at the regular general
422 election held on November 4, 1986. At * * * the election, the
423 members of the board from Supervisors Districts One and Two shall
424 be elected for a term of six (6) years; members of the board from
425 Supervisors Districts Three and Four shall be elected for a term
426 of two (2) years; and the member of the board from Supervisors
427 District Five shall be elected for a term of four (4) years. Each
428 subsequent member of the board shall be elected for a term of six
429 (6) years at the same time as the general election in which the
430 member of the county board of education representing the same
431 supervisors district is elected. All members of the board shall
432 take office on the first Monday of January following the date of
433 their election. The terms of all seven (7) appointed members
434 of * * * the board of trustees holding office on the effective



435 date of this act shall expire on the date that the first elected
436 members of the board take office. The board of trustees provided
437 for herein shall not lease or sell the community hospital property
438 under its jurisdiction unless the board of supervisors of the
439 county calls for an election on the proposition and a majority
440 voting in * * * the election shall approve * * * the lease or
441 sale.

442 The members of the board of trustees provided for in this
443 subsection shall be compensated a per diem and reimbursed for
444 their expenses and mileage in the same amount and subject to the
445 same restrictions provided for members of the county board of
446 education in Section 37-5-21 and may, at the discretion of the
447 board, choose to participate in any hospital medical benefit plan
448 which may be in effect for hospital employees. Any member of the
449 board of trustees choosing to participate in * * * the plan shall
450 pay the full cost of his participation in the plan so that no
451 expenditure of hospital funds is required.

452 The name of any qualified elector who is a candidate
453 for * * * the community hospital board of trustees shall be placed
454 on the ballot used in the general elections by the county election
455 commissioners, * * * if the candidate files with * * * the county
456 election commissioners, not more than ninety (90) days and not
457 less than thirty (30) days * * * before the date of * * * the
458 general election, a petition of nomination signed by not less than
459 fifty (50) qualified electors of the county residing within each



460 supervisors district. The candidate in each supervisors district
461 who receives the highest number of votes cast in the district
462 shall be declared elected.

463 (5) A board of trustees provided for herein may, in its
464 discretion, where funds are available, compensate each trustee per
465 diem in the amount of at least the amount established by Section
466 25-3-69 up to the maximum amount of not more than One Hundred
467 Fifty Dollars (\$150.00) for each meeting of * * * the board of
468 trustees or meeting of a committee established by the board of
469 trustees where the trustee was in attendance, and in addition
470 thereto provide meals at * * * the meetings and compensate each
471 member attending travel expenses at the rate authorized by Section
472 25-3-41 for actual mileage traveled to and from the place of
473 meeting.

474 (6) The owner which appointed a trustee may likewise remove
475 him from office by majority vote for failure to attend at least
476 fifty percent (50%) of the regularly scheduled meetings of * * *
477 the board during the twelve-month period preceding * * * the vote,
478 or for violation of any statute relating to the responsibilities
479 of his office, based upon the recommendation of a majority of the
480 remaining trustees.

481 (7) For community hospitals located in a county having a
482 population of less than one hundred thousand (100,000) according
483 to the most recent federal decennial census, the members of the
484 board of trustees, administrator and any other officials of the



485 community hospital as may be deemed necessary or proper by the
486 board of trustees shall be under bond in an amount not less than
487 Ten Thousand Dollars (\$10,000.00) nor more than One Hundred
488 Thousand Dollars (\$100,000.00) with some surety company authorized
489 to do business in the State of Mississippi to faithfully perform
490 the duties of his office. For community hospitals located in a
491 county having a population of one hundred thousand (100,000) or
492 more according to the most recent federal decennial census, the
493 bond shall be in an amount not less than Fifty Thousand Dollars
494 (\$50,000.00) nor more than Five Hundred Thousand Dollars
495 (\$500,000.00). Premiums for * * * the bonds shall be paid from
496 funds of the community hospital.

497 **SECTION 7.** Section 27-104-155, Mississippi Code of 1972, is
498 amended as follows:

499 27-104-155. (1) The Department of Finance and
500 Administration shall develop and operate a searchable website that
501 includes information on expenditures of state funds from all
502 funding sources. The website shall have a unique and simplified
503 website address, and the department shall require each agency that
504 maintains a generally accessible Internet site or for which a
505 generally accessible Internet site is maintained to include a link
506 on the front page of the agency's Internet site to the searchable
507 website required under this section.

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



510 (i) The name and principal location of the entity
511 or recipients of the funds, excluding release of information
512 relating to an individual's place of residence, the identity of
513 recipients of state or federal assistance payments, and any other
514 information deemed confidential by state or federal law relating
515 to privacy rights;

516 (ii) The amount of state funds expended;

517 (iii) A descriptive purpose of the funding action
518 or expenditure;

519 (iv) The funding source of the expenditure;

520 (v) The budget program or activity of the
521 expenditure;

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

525 (vii) The specific source of authority for the
526 expenditure including, but not limited to, a grant, subgrant,
527 contract, or the general discretion of the agency director,
528 provided that if the authority is a grant, subgrant or contract,
529 the website entry shall include a grant, subgrant or contract
530 number or similar information that clearly identifies the specific
531 source of authority. The information required under this
532 paragraph includes data relative to tax exemptions and credits;

533 (viii) The expending agency;

534 (ix) The type of transaction;



535 (x) The expected performance outcomes achieved for
536 the funding action or expenditure;

537 (xi) Links to any state audit or report relating
538 to the entity or recipient of funds or the budget program or
539 activity or agency; and

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

542 (b) When the expenditure of state funds involves the
543 expenditure of bond proceeds, the searchable website must include
544 a clear, detailed description of the purpose of the bonds, a
545 current status report on the project or projects being financed by
546 the bonds, and a current status report on the payment of the
547 principal and interest on the bonds.

548 (c) The searchable website must include access to an
549 electronic summary of each grant, including amendments; subgrant,
550 including amendments; contract, including amendments; and payment
551 voucher that includes, wherever possible, a hyperlink to the
552 actual document in a searchable PDF format, subject to the
553 restrictions in paragraph (d) of this section. The Department of
554 Finance and Administration may cooperate with other agencies to
555 accomplish the requirements of this paragraph.

556 (d) Nothing in Sections 27-104-151 through 27-104-159
557 shall permit or require the disclosure of trade secrets or other
558 proprietary information, including confidential vendor



559 information, or any other information that is required to be
560 confidential by state or federal law.

561 (e) The information available from the searchable
562 website must be updated no later than fourteen (14) days after the
563 receipt of data from an agency, and the Department of Finance and
564 Administration shall require each agency to provide to the
565 department access to all data that is required to be accessible
566 from the searchable website within fourteen (14) days of each
567 expenditure, grant award, including amendments; subgrant,
568 including amendments; or contract, including amendments; executed
569 by the agency.

570 (f) The searchable website must include all information
571 required by this section for all transactions that are initiated
572 in fiscal year 2015 or later. In addition, all information that
573 is included on the searchable website from the date of the
574 inception of the website until July 1, 2014, must be maintained on
575 the website according to the requirements of this section before
576 July 1, 2014, and remain accessible for ten (10) years from the
577 date it was originally made available. All data on the searchable
578 website must remain accessible to the public for a minimum of ten
579 (10) years.

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



584 (a) Provide access to existing financial reports,
585 financial audits, budgets and other financial documents that are
586 used to allocate, appropriate, spend and account for appropriated
587 funds;

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

589 (c) Be directly accessible via a link from the main
590 page of the Department of Finance and Administration website, as
591 well as the IHL website and the main page of the website of each
592 institution of higher learning;

593 (d) Include other links, features or functionality that
594 will assist the public in obtaining and reviewing public financial
595 information;

596 (e) Report expenditure information currently available
597 within these enterprise resource planning (ERP) computer systems;
598 and

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

601 (3) The Mississippi Community College Board shall create the
602 Community and Junior Colleges Accountability and Transparency
603 website to include its executive office and the community and
604 junior colleges no later than July 1, 2012. This website shall:

605 (a) Provide access to existing financial reports,
606 financial audits, budgets and other financial documents that are
607 used to allocate, appropriate, spend and account for appropriated
608 funds;



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

610 (c) Be directly accessible via a link from the main
611 page of the Department of Finance and Administration website, as
612 well as the Mississippi Community College Board website and the
613 main page of the website of each community and junior college;

614 (d) Include other links, features or functionality that
615 will assist the public in obtaining and reviewing public financial
616 information;

617 (e) Report expenditure information currently available
618 within the computer system of each community and junior college;
619 and

620 (f) Design the reporting format using the existing
621 capabilities of the computer system of each community and junior
622 college.

623 (4) Not later than January 1, 2016, the owner or owners of a
624 community hospital, as defined in Section 41-13-10, shall create
625 and maintain an accountability and transparency website for the
626 community hospital or set up a separate section for the community
627 hospital on the current website of the owner or owners. This
628 website of the community hospital or section of the website of the
629 owner or owners shall:

630 (a) Provide access to existing financial reports,
631 financial audits, budgets and other financial documents of the
632 community hospital that are used to allocate, appropriate, spend
633 and account for public funds;



634 (b) Have a unique and simplified website address if it
635 is a new website for the community hospital, or be an easily
636 accessible section of the website of the owner or owners;

637 (c) Include links, features or functionality that will
638 assist the public in obtaining and reviewing public financial
639 information of the community hospital;

640 (d) Report expenditure information of the community
641 hospital in functional expenditure categories that is currently
642 available within the computer system of the community hospital;
643 and

644 (e) Design the reporting format using the existing
645 capabilities of the computer system or systems of the owner or
646 owners of the community hospital.

647 **SECTION 8.** Section 41-9-68, Mississippi Code of 1972, is
648 amended as follows:

649 41-9-68. (1) Except as otherwise provided in subsection (2)
650 of this section, records maintained by public hospitals * * *
651 shall be exempt from the provisions of the Mississippi Public
652 Records Act of 1983.

653 (2) The following records of public hospitals shall not be
654 exempt from the Mississippi Public Records Act of 1983:

655 (a) The official minutes of the board of trustees of a
656 public hospital;

657 (b) Financial reports not otherwise exempt that are
658 required by state or federal statute or regulation to be filed



659 with the owner of the public hospital or with any other agency of
660 state or federal government; and

661 (c) Any other record maintained by a public hospital
662 that does not fall within the definition of the term "hospital
663 records" as that term is defined in Section 41-9-61, except for
664 the following records, which shall be exempt:

665 (i) Records directly relating to the terms of any
666 potential or current employment or services agreement with any
667 physicians or other employees of a public hospital, including any
668 application for medical staff privileges or membership with a
669 public hospital;

670 (ii) Records directly relating to the
671 credentialing, health, performance, salary, raises or disciplinary
672 action of any employee or medical staff member or applicant for
673 medical staff privileges at a public hospital;

674 (iii) Records directly relating to prospective
675 strategic business decisions of a public hospital, including
676 without limitation, decisions to open a new service line,
677 implement capital improvements, or file applications for
678 certificates of need or determinations of nonreviewability with
679 the State Department of Health; and

680 (iv) Records directly relating to individual
681 patient billing and collection information.

682 **SECTION 9.** The following shall be codified as Section
683 41-13-49, Mississippi Code of 1972:



684 41-13-49. (1) As used in this section and Section 41-13-51,
685 the following terms shall be defined as provided in this
686 subsection:

687 (a) "Administrator" means the person primarily
688 responsible for the management of the retirement plan or, if no
689 person is clearly designated, the trustee of the retirement plan
690 who has the ultimate authority to manage the plan;

691 (b) "Beneficiary" means a person, other than the
692 participant, who is designated by a participant or by the
693 retirement plan to receive a benefit under the retirement plan;

694 (c) "Defined benefit retirement plan" means a
695 retirement plan other than a defined contribution retirement plan;

696 (d) "Defined contribution retirement plan" means a
697 retirement plan that provides for an individual account for each
698 participant and for benefits based solely upon the amount
699 contributed to the participant's account, and any income,
700 expenses, gains and losses credited or charged to the account and
701 any forfeitures of accounts of other participants that may be
702 allocated to the participant's account;

703 (e) "Governing law" means state and local laws
704 establishing or authorizing the creation of the retirement plan
705 and the principal state and local laws and regulations governing
706 the management of the retirement plan or assets of either;



707 (f) "Nonforfeitable benefit" means an immediate or
708 deferred benefit that arises from a participant's service, is
709 unconditional, and is enforceable against the retirement plan;

710 (g) "Participant" means an individual who is or has
711 been an employee enrolled in the retirement plan and who is or may
712 become eligible to receive or is currently receiving a benefit
713 under the retirement plan, or whose beneficiaries are or may
714 become eligible to receive a benefit. The term does not include
715 an individual who is no longer an employee of the community
716 hospital and has not accrued any nonforfeitable benefits under the
717 retirement plan;

718 (h) "Retirement plan" means a plan of rights and
719 obligations that a community hospital establishes or maintains and
720 that, by its express terms or as a result of surrounding
721 circumstances, provides retirement income to employees;

722 (i) "Trustee" means a person who has ultimate authority
723 to manage a retirement plan or to invest or manage its assets.

724 (2) This section and Section 41-13-51 apply to any defined
725 benefit retirement plan established or maintained by a community
726 hospital for its employees, whether the membership of the
727 retirement plan is open or closed to new members. This section
728 and Section 41-13-51 do not apply to any community hospital that
729 is a member of the Public Employees' Retirement System.

730 (3) The administrator of the retirement plan shall prepare
731 and disseminate:



732 (a) A summary plan description of the retirement plan;
733 (b) A summary description of any material modification
734 in the terms of the retirement plan and any material change in the
735 information required to be contained in the summary plan
736 description, to the extent the modification or change has not been
737 integrated into an updated summary plan description;
738 (c) An annual disclosure of financial and actuarial
739 status; and
740 (d) An annual report.

741 (4) The administrator shall make available for public
742 examination in the principal office of the administrator and in
743 other places if necessary to make the information reasonably
744 available to participants:

745 (a) The governing law of the retirement plan;
746 (b) The most recent summary plan description;
747 (c) Summary descriptions of modifications or changes
748 described in subsection (3) (b) of this section that have been
749 provided to participants and beneficiaries but not yet integrated
750 into the summary plan description;
751 (d) The most recent annual disclosure of financial and
752 actuarial status; and
753 (e) The most recent annual report.

754 (5) Upon written request by a participant, beneficiary or
755 member of the public, the administrator shall provide a copy of
756 any publication described in subsection (4) of this section.



757 (6) The administrator shall furnish to each participant and
758 to each beneficiary who is receiving benefits under the retirement
759 plan:

760 (a) A copy of the most recent summary plan description,
761 along with any summary descriptions of modifications or changes
762 described in subsection (3) (b) of this section, within three (3)
763 months after a person becomes a participant or, in the case of a
764 beneficiary, within three (3) months after a person first receives
765 benefits, or, if later, within four (4) months after the
766 retirement plan becomes subject to this section;

767 (b) The summary description of any modifications or
768 changes described in subsection (3) (b) of this section, within
769 seven (7) months after the end of the fiscal year in which a
770 modification or change has been made;

771 (c) A copy of an updated summary plan description that
772 integrates all modifications and changes at intervals not
773 exceeding five (5) years; and

774 (d) The annual report within seven (7) months after the
775 end of each fiscal year.

776 (7) The administrator shall provide to a participant or
777 beneficiary a statement containing information that would permit
778 the participant or beneficiary to estimate projected benefits
779 reasonably, to the extent the information is regularly maintained
780 by the retirement plan. The information shall be provided with
781 the annual report or upon written request of the participant or



782 beneficiary. The information need not be provided to a
783 participant or beneficiary who is currently receiving benefits.

784 (8) A participant who is not currently receiving benefits is
785 entitled without charge to one (1) statement under subsection (7)
786 of this section during any fiscal year. The administrator shall
787 provide the statements within thirty (30) days after the
788 participant's or beneficiary's request.

789 **SECTION 10.** The following shall be codified as Section
790 41-13-51, Mississippi Code of 1972:

791 41-13-51. (1) A summary plan description and a summary
792 description of modifications or changes under Section
793 41-13-49(3)(b) of this act shall be written in a manner calculated
794 to be understood by the average participant and be accurate and
795 sufficiently comprehensive reasonably to inform the participants
796 and beneficiaries of their rights and obligations under the
797 retirement plan.

798 (2) A summary plan description shall contain:

799 (a) The name of the retirement plan;

800 (b) The name and business address of the administrator;

801 (c) The name and business address of each agent for
802 service of process;

803 (d) Citations to the governing law of the retirement
804 plan;

805 (e) A description of the retirement plan's requirements
806 respecting eligibility for participation and benefits;



807 (f) A description of the retirement plan's provisions
808 providing for nonforfeitable benefits;

809 (g) A description of circumstances that may result in
810 disqualification, ineligibility or denial or loss of benefits;

811 (h) A description of the benefits provided by the
812 retirement plan, including the manner of calculating benefits and
813 any benefits provided for spouses and survivors;

814 (i) The source of financing of the retirement plan;

815 (j) The identity of any organization through which
816 benefits are provided;

817 (k) The date the fiscal year ends;

818 (l) The procedures to claim benefits under the
819 retirement plan and the administrative procedures available under
820 the retirement plan for the redress of claims that are denied in
821 whole or in part; and

822 (m) Notice of the availability of additional
823 information under Section 41-13-49(4), (5), (7) and (8).

824 (3) An annual disclosure of financial and actuarial
825 status shall contain:

826 (a) The name of the retirement plan;

827 (b) The name and business address of the administrator;

828 (c) The name and business address of each trustee and
829 each member of a trustee board and a brief description of how the
830 trustee or member was selected;



831 (d) The name and business address of each agent for the
832 service of process;

833 (e) The number of employees covered by the retirement
834 plan;

835 (f) Financial statements and notes to the financial
836 statements in conformity with generally accepted accounting
837 principles;

838 (g) An opinion on the financial statements by a
839 qualified public accountant in conformity with generally accepted
840 auditing standards;

841 (h) Actuarial schedules and notes to the actuarial
842 schedules in conformity with generally accepted actuarial
843 principles and practices for measuring pension obligations;

844 (i) An opinion by a qualified actuary that the
845 actuarial schedules are complete and accurate to the best of the
846 actuary's knowledge, that each assumption and method used in
847 preparing the schedules is reasonable, that the assumptions and
848 methods in the aggregate are reasonable, and that the assumptions
849 and methods in combination offer the actuary's best estimate of
850 anticipated experience;

851 (j) A description of any material interest, other than
852 the interest in the retirement plan itself, held by the community
853 hospital or any employee organization representing employees
854 covered by the retirement plan in any material transaction with



855 the retirement plan within the last three (3) years or proposed to
856 be effected;

857 (k) A description of any material interest held by any
858 trustee, administrator or employee who is a fiduciary with respect
859 to the investment and management of assets of the retirement plan,
860 or by a related person, in any material transaction with the
861 retirement plan within the last three (3) years or proposed to be
862 effected;

863 (l) A schedule of the rates of return, net of total
864 investment expense, on assets of the retirement plan overall and
865 on assets aggregated by category over the most recent one-,
866 three-, five- and ten-year periods, to the extent available, and
867 the rates of return on appropriate benchmarks for assets of the
868 retirement plan overall and for each category over each period;

869 (m) A schedule of the sum of total investment expense
870 and total general administrative expense for the fiscal year
871 expressed as a percentage of the fair value of assets of the
872 retirement plan on the last day of the fiscal year, and an
873 equivalent percentage for the preceding five (5) fiscal years; and

874 (n) A schedule of all assets held for investment
875 purposes on the last day of the fiscal year aggregated and
876 identified by issuer, borrower, lessor or similar party to the
877 transaction stating, if relevant, the asset's maturity date, rate
878 of interest, par or maturity value, number of shares, cost and



879 fair value and identifying any asset that is in default or
880 classified as uncollectible.

881 (4) An annual report shall contain:

882 (a) The name and business address of each trustee and
883 each member of a trustee board;

884 (b) The financial statements, but not the notes,
885 required by subsection (3)(f) of this section;

886 (c) The actuarial schedules, but not the notes,
887 required by subsection (3)(h) of this section;

888 (d) The schedules described in subsection (3)(l) and
889 (m) of this section;

890 (e) A brief description of and information about how to
891 interpret the statements and schedules;

892 (f) Other material necessary to summarize fairly and
893 accurately the annual disclosure of financial and actuarial
894 status; and

895 (g) Notice of the availability of additional
896 information under Section 41-13-49(4), (5), (7) and (8).

897 **SECTION 11.** This act shall take effect and be in force from
898 and after January 1, 2016.

