

By: Representative Zuber

To: Banking and Financial Services

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1230

1 AN ACT TO AMEND SECTION 27-105-365, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE HOSPITALS TO MAINTAIN A TRUST FUND CONSISTING OF
3 COMMINGLED FUNDS OF OTHER GOVERNMENTAL HOSPITALS OPERATING IN
4 MISSISSIPPI THAT DO NOT SHARE COMMON OWNERSHIP OR MANAGEMENT; TO
5 PRESCRIBE WHAT MAY BE INCLUDED IN THE PORTFOLIO OF SUCH TRUST
6 FUNDS AND THE MAXIMUM AND MINIMUM LIMITATIONS OF SUCH INCLUSION IN
7 DOLLAR AMOUNT AND PERCENTAGES; TO REQUIRE THE ENTITY OR INDIVIDUAL
8 RESPONSIBLE FOR MANAGING THE TRUST TO POSSESS TRUST POWERS OR TO
9 BE REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION; TO
10 REQUIRE THE INVESTMENT MANAGER OF THE COMMINGLED FUNDS TO INVEST
11 THE FUNDS AS A FIDUCIARY; AND FOR RELATED PURPOSES.

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

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

15 27-105-365. (1) The commissioners or board of trustees of
16 any hospital owned and operated separately or jointly by one or
17 more counties, cities, towns, supervisors districts, or election
18 districts or combinations thereof, including hospitals established
19 under the authority of Sections 41-13-1 through 41-13-9, as now or
20 hereafter amended, are hereby authorized and empowered to deposit
21 the funds of such hospital in or through one or more financial
22 institutions whose accounts are insured by the Federal Deposit



23 Insurance Corporation, selected by the board of trustees in the
24 same manner as county depositories are selected by boards of
25 supervisors pursuant to Section 27-105-305, located in its county
26 or counties, except as otherwise provided in the following
27 paragraphs.

28 At the regular December meeting of the board of trustees in
29 1995, or at any regular December meeting of the board thereafter,
30 the board may, in its discretion, give notice by publication to
31 all financial institutions in its county or counties whose
32 accounts are insured by the Federal Deposit Insurance Corporation,
33 that bids will be received from financial institutions at the
34 following January meeting, or some subsequent meeting, for the
35 privilege of keeping the hospital funds or any part thereof for a
36 period of three (3) years, subject to earlier termination as
37 authorized in this subsection. Such bids shall be submitted and
38 accepted in the same manner as provided in Section 27-105-305.
39 After the board has selected a depository or depositories as
40 provided in this subsection, the board may, at any regular
41 December meeting during the three-year period, give notice to and
42 receive bids from financial institutions in the manner provided in
43 this subsection, for the privilege of keeping the hospital funds
44 or any part thereof for a period of three (3) years, subject to
45 earlier termination as authorized in this subsection; and after
46 receiving such bids, the board may reject all bids and elect to
47 keep the funds in the current depository or depositories for the



48 remainder of the three-year period under the terms originally
49 agreed to with the depository or depositories, or if the board
50 determines it to be in the best interests of the hospital, it may
51 terminate the agreement with the current depository or
52 depositories and select a new depository or depositories or the
53 same depository or depositories from the bids received, choosing
54 the bid or bids proposing the best terms for the hospital.

55 Such hospital funds, when so deposited, shall have the same
56 security and protection as required for county funds in Section
57 27-105-315. When more than one (1) depository of whatever type is
58 authorized, the commissioners or board of trustees may select one
59 or more of such depositories and may apportion such deposits, at
60 their or its discretion, if more than one (1) depository is
61 selected. If there is no financial institution located within
62 such county or counties, the commissioners or board of trustees of
63 such hospital may select, in their or its discretion, a depository
64 located outside of such county or counties.

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

69 (2) The commissioners or board of trustees of any such
70 hospital may, in their or its discretion, maintain one or more
71 special funds for the purpose of making necessary repairs,
72 necessary purchases of equipment, meeting operational and



73 maintenance expenses, allowing for depreciation, providing
74 contingent funds for emergencies, funding hospital improvements,
75 or providing for other special needs, and may deposit any part of
76 such special fund in accordance with the provisions contained in
77 subsection (1) for the deposit of other funds of such hospital.
78 Said commissioners or board of trustees may also invest any part
79 of such special fund, any funds derived from the sale of bonds, or
80 any other funds in excess of the sums which will be required to
81 meet the current needs and demands of no more than seven (7)
82 business days in the following:

83 (a) In any bonds or other direct obligations of the
84 United States of America or the State of Mississippi, or of any
85 county, school district or municipality of this state, which such
86 county, school district or municipal bonds have been approved by a
87 reputable bond attorney or have been validated by decree of the
88 chancery court;

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

93 (c) In any United States government agency, United
94 States government instrumentality, or United States government
95 sponsored enterprise obligations, the principal and interest of
96 which are fully guaranteed by the government of the United States,
97 such as the Government National Mortgage Association; or any



98 United States government agency, United States government
99 instrumentality, or United States government sponsored enterprise
100 obligations, the principal and interest of which are guaranteed by
101 any United States government agency, United States government
102 instrumentality, or United States government sponsored enterprise.
103 However, at no time shall the funds invested in United States
104 government agency, United States government instrumentality, or
105 United States government sponsored enterprise obligations
106 enumerated in the preceding sentence exceed fifty percent (50%) of
107 all monies invested with maturities of thirty (30) days or longer.
108 The limitation set forth in the preceding sentence shall be
109 applicable only at the time of purchase and shall not require the
110 liquidation of any investment at any time;

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

115 (e) In an insured account or accounts in or through one
116 or more financial institutions in this state whose accounts are
117 insured by the Federal Deposit Insurance Corporation; provided
118 that the amount in any single account shall not exceed the amount
119 which at any one time is insured by the Federal Deposit Insurance
120 Corporation;

121 (f) In any open-end or closed-end management-type
122 investment company or investment trust registered under the



123 provisions of 15 USCS Section 80(a)-1 et seq., provided that the
124 portfolio of such investment company or investment trust is
125 limited to direct obligations issued by the United States of
126 America, United States government agencies, United States
127 government instrumentalities or United States government sponsored
128 enterprises, and to repurchase agreements fully collateralized by
129 direct obligations of the United States of America, United States
130 government agencies, United States government instrumentalities or
131 United States government sponsored enterprises, and the investment
132 company or investment trust takes delivery of such collateral for
133 the repurchase agreement, either directly or through an authorized
134 custodian. The total dollar amount of funds invested in all
135 open-end and closed-end management-type investment companies and
136 investment trusts at any one time shall not exceed twenty percent
137 (20%) of the total dollar amount of funds invested under this
138 subsection. The limitation set forth in the preceding sentence
139 shall be applicable only at the time of purchase and shall not
140 require the liquidation of any investment at any time;

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

143 (i) The portfolio of such trust fund may include
144 investments in commercial paper and bankers acceptances or other
145 short-term obligations issued by banks having one (1) of the two
146 (2) highest short-term rating categories of either Standard &
147 Poor's Corporation or Moody's Investors Service, or corporate



148 notes and bonds having one (1) of the three (3) highest long-term
149 rating categories of either Standard & Poor's Corporation or
150 Moody's Investors Service, or in any open-ended or closed-ended
151 management-type investment company or investment trust registered
152 under the provisions of 15 USCS Section 80(a)-1 et seq., that
153 would contain the aforementioned securities;

154 (ii) The portfolio of such trust fund is otherwise
155 limited to investments authorized under this section; provided,
156 however, that such investments shall not be subject to the
157 percentage limitations set forth in subsection (2)(c) or
158 subsection (2)(f) of this section;

159 (iii) Such trust is managed by an entity with
160 trust powers or by an investment adviser registered with the
161 Securities and Exchange Commission and retained as an investment
162 manager by the commissioners or the board of trustees, as the case
163 may be; * * *

164 (iv) Any investment manager approved by the
165 commissioners or the board of trustees, as the case may be, shall
166 invest such commingled funds as a fiduciary * * *; and

167 (h) In a trust fund consisting of pooled or commingled
168 funds of at least three (3) other governmental hospitals operating
169 in Mississippi that do not share common ownership or management
170 under a single governing board, provided that:

171 (i) The portfolio of such trust fund may include
172 investments in shares of stocks, common and/or preferred, and



173 convertible securities of corporations created by or existing
174 under the laws of the United States or any state, district or
175 territory thereof and shares of stocks, common and/or preferred,
176 and convertible securities of non-United States companies, or in
177 any open-ended or closed-ended management-type investment company
178 or investment trust registered under the provisions of 15 USCS
179 Section 80(a)-1 et seq., that would contain the type of securities
180 described in this subparagraph (i), provided that:

181 1. The maximum investment by any single
182 governmental hospital in a trust fund described in this paragraph
183 (h) for each participating hospital shall not exceed thirty
184 percent (30%) of the total dollar amount of funds invested under
185 this subsection (2) by or for such hospital as of the date an
186 investment is made or as of the end of the calendar year;

187 2. The shares held by the trust must be
188 listed on a national stock exchange or be traded in the
189 over-the-counter market;

190 3. The shares held by the trust shall be
191 securities of corporations having a total market value of not less
192 than Two Hundred Fifty Million Dollars (\$250,000,000.00);

193 4. The amount of investment in any one (1)
194 corporation shall not exceed three percent (3%) of the total
195 dollar amount of funds then held for investment in the trust; and



196 5. The shares of any one (1) corporation held
197 for investment by the trust shall not exceed five percent (5%) of
198 that corporation's outstanding stock;

199 (ii) The portfolio of such trust fund is otherwise
200 limited to investments authorized under this section. However,
201 such investments shall not be subject to the percentage
202 limitations set forth in subsection (2)(c) or subsection (2)(f) of
203 this section;

204 (iii) Such trust is managed by an entity with
205 trust powers or by an investment adviser registered with the
206 Securities and Exchange Commission and retained as an investment
207 manager by the commissioners or the board of trustees, as the case
208 may be, and despite the pooled or commingled nature of the funds
209 in the trust, such trust or manager shall separately account for
210 and report on each hospital's separate investments through trust
211 sub-accounts or otherwise; and

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

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

219 In any event, the bonds or obligations described in paragraph
220 (a), (b) or (c) of this subsection (2) in which such funds are



221 invested shall mature or be redeemable prior to the time the funds
222 so invested will be needed for expenditures. When bonds or other
223 obligations have been so purchased, the same may be sold or
224 surrendered for redemption at any time by order or resolution of
225 the commissioners or board of trustees of any such hospital, and
226 the president or vice president, when authorized by such order or
227 resolution, shall have the power and authority to execute all
228 instruments and take such other action as may be necessary to
229 effectuate the sale or redemption thereof.

230 When any such special fund is maintained for a purpose that
231 requires contract letting or other action by the governing
232 authority or authorities of the counties, cities, towns,
233 supervisors districts or election districts, separately or jointly
234 owning and operating such hospital, the commissioners or board of
235 trustees of the hospital may transfer the whole or any part of any
236 such special fund to the governing authority or authorities
237 aforesaid on condition that the same be used for such purpose or
238 returned to the transferring commissioners or board of trustees
239 within the time designated in the conditions.

240 (3) All funds which shall be derived from any tax levied for
241 the support and maintenance of any such hospital, and all other
242 funds which may be made available for the support and maintenance
243 of any such hospital by the state or any county or municipality,
244 and all fees and other monies which may be collected or received
245 by or for such hospital shall be placed in a special fund to the



246 credit of such hospital within sixty (60) days after collection,
247 and all such funds shall be expended and paid out upon the
248 allowance of the board of trustees or commissioners of the
249 hospital, as the case may be, and disbursed by checks signed by
250 such person, officer or officers, as may be designated by such
251 board of trustees or commissioners. Any officer or person who
252 shall be designated by such board of trustees or commissioners to
253 execute such checks shall furnish to such board of trustees or
254 commissioners a good and sufficient surety bond in such amount as
255 such board of trustees may fix, conditioned upon the faithful
256 discharge of his duties, and the premium on such bond shall be
257 paid from the funds available for the support and maintenance of
258 such hospital. No funds shall be disbursed by any such hospital
259 until the board of trustees or the commissioners thereof shall
260 have adopted an annual budget and submitted same to the respective
261 governing authority or authorities of the counties, cities, towns,
262 supervisors districts, or election districts, separately or
263 jointly owning and operating such hospital, and until such budget
264 shall have been approved by the governing authority or
265 authorities, as the case may be, which approval shall be evidenced
266 by a proper order recorded upon the minutes of each such
267 authority. The accounts and records of any such hospital shall be
268 audited by the State Department of Audit at the same time and in
269 the same manner as the accounts and financial records of the
270 county are audited, and for such purpose shall be considered in



271 all respects as county accounts and records; however, this
272 provision with regard to such audits shall be applicable only to
273 hospitals owned wholly or in part by a county.

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

277 **SECTION 2.** This act shall take effect and be in force from
278 and after July 1, 2019.

