

By: Senator(s) Harkins

To: Accountability,
Efficiency, Transparency

SENATE BILL NO. 2450

1 AN ACT TO BRING FORWARD SECTIONS 25-41-1, 25-41-3, 25-41-5,
2 25-41-7, 25-41-9, 25-41-11, 25-41-13, 25-41-15, AND 25-41-17,
3 MISSISSIPPI CODE OF 1972, FOR THE PURPOSES OF POSSIBLE AMENDMENT;
4 AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 25-41-1, Mississippi Code of 1972, is
7 brought forward as follows:

8 25-41-1. It being essential to the fundamental philosophy of
9 the American constitutional form of representative government and
10 to the maintenance of a democratic society that public business be
11 performed in an open and public manner, and that citizens be
12 advised of and be aware of the performance of public officials and
13 the deliberations and decisions that go into the making of public
14 policy, it is hereby declared to be the policy of the State of
15 Mississippi that the formation and determination of public policy
16 is public business and shall be conducted at open meetings except
17 as otherwise provide herein.

18 **SECTION 2.** Section 25-41-3, Mississippi Code of 1972, is
19 brought forward as follows:



20 25-41-3. For purposes of this chapter, the following words
21 shall have the meaning ascribed herein, to wit:

22 (a) "Public body" means any executive or administrative
23 board, commission, authority, council, department, agency, bureau
24 or any other policymaking entity, or committee thereof, of the
25 State of Mississippi, or any political subdivision or municipal
26 corporation of the state, whether the entity be created by statute
27 or executive order, which is supported wholly or in part by public
28 funds or expends public funds, and any standing, interim or
29 special committee of the Mississippi Legislature. The term
30 "public body" includes the governing board of a charter school
31 authorized by the Mississippi Charter School Authorizer Board and
32 the board of trustees of a community hospital as defined in
33 Section 41-13-10. The term "public body" includes the Mississippi
34 Lottery Corporation. There shall be exempted from the provisions
35 of this chapter:

- 36 (i) The judiciary, including all jury
37 deliberations;
- 38 (ii) Law enforcement officials;
- 39 (iii) The military;
- 40 (iv) The State Probation and Parole Board;
- 41 (v) The Workers' Compensation Commission;
- 42 (vi) Legislative subcommittees and legislative
43 conference committees;



44 (vii) The arbitration council established in
45 Section 69-3-19;

46 (viii) License revocation, suspension and
47 disciplinary proceedings held by the Mississippi State Board of
48 Dental Examiners; and

49 (ix) Hearings and meetings of the Board of Tax
50 Appeals and of the hearing officers and the board of review of the
51 Department of Revenue as provided in Section 27-77-15.

52 (b) "Meeting" means an assemblage of members of a
53 public body at which official acts may be taken upon a matter over
54 which the public body has supervision, control, jurisdiction or
55 advisory power, including an assemblage through the use of video
56 or teleconference devices that conforms to Section 25-41-5.

57 **SECTION 3.** Section 25-41-5, Mississippi Code of 1972, is
58 brought forward as follows:

59 25-41-5. (1) All official meetings of any public body,
60 unless otherwise provided in this chapter or in the Constitutions
61 of the United States of America or the State of Mississippi, are
62 declared to be public meetings and shall be open to the public at
63 all times unless declared an executive session as provided in
64 Section 25-41-7.

65 (2) A public body may conduct any meeting through
66 teleconference or video means. A quorum of a public body as
67 prescribed by law may be at different locations for the purpose of
68 conducting a meeting through teleconference or video means



69 provided that the equipment used is located at the place where the
70 public body normally meets or at a public location specified in
71 any notice of a special meeting, and provided that the equipment
72 allows all members of the public body and members of the public
73 who attend the meeting to hear the deliberations of the public
74 body.

75 (3) An agenda and materials that will be distributed to
76 members of the public body and that have been made available to
77 the staff of the public body in sufficient time for duplication
78 and forwarding to the members of the public body shall be made
79 available to the public at the time of the meeting. Votes taken
80 during any meeting conducted through teleconference or video means
81 shall be taken in a manner that is clearly audible or visible to
82 all members of the public body and to members of the public
83 present at the public location.

84 **SECTION 4.** Section 25-41-7, Mississippi Code of 1972, is
85 brought forward as follows:

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

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



94 upon the issue of whether or not to declare an executive session.
95 The motion, by majority vote, shall require the meeting to be
96 closed for a preliminary determination of the necessity for
97 executive session. No other business shall be transacted until
98 the discussion of the nature of the matter requiring executive
99 session has been completed and a vote, as required in subsection
100 (1) hereof, has been taken on the issue.

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

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

111 (a) Transaction of business and discussion of personnel
112 matters relating to the job performance, character, professional
113 competence, or physical or mental health of a person holding a
114 specific position, or matters relating to the terms of any
115 potential or current employment or services agreement with any
116 physicians or other employees of public hospitals, including any
117 discussion of any person applying for medical staff privileges or
118 membership with a public hospital.



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

123 (c) Transaction of business and discussion regarding
124 the report, development or course of action regarding security
125 personnel, plans or devices.

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

128 (e) Any body of the Legislature which is meeting on
129 matters within the jurisdiction of that body.

130 (f) Cases of extraordinary emergency which would pose
131 immediate or irrevocable harm or damage to persons or property, or
132 both, within the jurisdiction of the public body.

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

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

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



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

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

159 (l) Discussions regarding material or data exempt from
160 the Mississippi Public Records Act of 1983 pursuant to Section
161 25-11-121.

162 (m) Transaction of business and discussion regarding
163 prospective strategic business decisions of public hospitals,
164 including without limitation, decisions to open a new service
165 line, implement capital improvements, or file applications for



166 certificates of need or determinations of nonreviewability with
167 the State Department of Health.

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

173 (o) Investigative discussions, investigative
174 strategies, probative strategies related to identifiable instances
175 of human trafficking or commercial sexual exploitation, and
176 discussions involving locations of shelters or safe-houses for
177 victims of human trafficking or commercial sexual exploitation.

178 (p) Transaction of business of committees,
179 subcommittees or boards that would require discussion of any
180 identifiable information of victims of human trafficking or
181 children under eighteen years old who are victims of commercial
182 sexual exploitation.

183 (5) The total vote on the question of entering into an
184 executive session shall be recorded and spread upon the minutes of
185 the public body.

186 (6) Any vote whereby an executive session is declared shall
187 be applicable only to that particular meeting on that particular
188 day.

189 **SECTION 5.** Section 25-41-9, Mississippi Code of 1972, is
190 brought forward as follows:



191 25-41-9. Any public body may make and enforce reasonable
192 rules and regulations for the conduct of persons attending its
193 meetings.

194 **SECTION 6.** Section 25-41-11, Mississippi Code of 1972, is
195 brought forward as follows:

196 25-41-11. (1) Minutes shall be kept of all meetings of a
197 public body, whether in open or executive session, showing the
198 members present and absent; the date, time and place of the
199 meeting; an accurate recording of any final actions taken at such
200 meeting; and a record, by individual member, of any votes taken;
201 and any other information that the public body requests be
202 included or reflected in the minutes. The minutes shall be
203 recorded within a reasonable time not to exceed thirty (30) days
204 after recess or adjournment and shall be open to public inspection
205 during regular business hours.

206 (2) Minutes of a meeting conducted by teleconference or
207 video means shall comply with the requirements of Section 25-41-5.

208 (3) Minutes of legislative committee meetings shall consist
209 of a written record of attendance and final actions taken at such
210 meetings.

211 **SECTION 7.** Section 25-41-13, Mississippi Code of 1972, is
212 brought forward as follows:

213 25-41-13. (1) Any public body which holds its meetings at
214 such times and places and by such procedures as are specifically



215 prescribed by statute shall continue to do so and no additional
216 notice of such meetings shall be required except that:

217 (a) A notice of the place, date, hour and subject
218 matter of any recess meeting, adjourned meeting, interim meeting
219 or any called special meeting shall be posted within one (1) hour
220 after such meeting is called in a prominent place available to
221 examination and inspection by the general public in the building
222 in which the public body normally meets. A copy of the notice
223 shall be made a part of the minutes or other permanent official
224 records of the public body; and

225 (b) Except as otherwise provided by law, a notice of a
226 called special meeting shall be posted to the public body's
227 website, if the public body has a website and has the capability
228 to update the website, not less than one (1) hour before the
229 meeting. A copy of this notice shall be transmitted via email or
230 facsimile not less than one (1) hour before the meeting to any
231 citizen and any publication, broadcast and digital media with a
232 general circulation or coverage within the public body's
233 jurisdiction, that has submitted in writing its interest to
234 receive these notices. Any public body may, at its discretion,
235 purge any list of publications, broadcasts or digital media that
236 have requested to receive the notices once every twenty-four (24)
237 months. After the purge, any publication, broadcast or digital
238 media may resubmit in writing its interest to receive the notices.
239 Nothing in this paragraph (b) shall add additional notice



240 requirements for meetings of public bodies held in cases of
241 emergencies. The provision of this paragraph (b) requiring notice
242 to be posted on the public body's website shall not apply to
243 municipalities with a population as determined by the latest
244 federal decennial census of less than twenty-five thousand
245 (25,000) inhabitants, and any county with less than fifty thousand
246 (50,000) according to the latest federal decennial census.

247 (2) Any public body, other than a legislative committee,
248 which does not have statutory provisions prescribing the times and
249 places and the procedures by which its meetings are to be held
250 shall, at its first regular or special meeting after January 1,
251 1976, spread upon its minutes the times and places and the
252 procedures by which all of its meetings are to be held.

253 (3) Notice of any regular meeting held by a state agency,
254 other than a legislative committee, shall be submitted to the
255 Department of Finance and Administration at least twenty-four (24)
256 hours before the meeting in order to be posted on the department's
257 searchable website created by the Mississippi Accountability and
258 Transparency Act, Section 27-104-152 et seq. For purposes of this
259 subsection, the term "state agency" means an agency, department,
260 institution, board, commission, council, office, bureau, division,
261 committee or subcommittee of the state. However, the term "state
262 agency" does not include institutions of higher learning,
263 community and junior colleges, counties or municipalities.



264 (4) During a regular or special session of the Mississippi
265 Legislature, notice of meetings of all committees, other than
266 conference committees, shall be given by announcement on the
267 loudspeaker during sessions of the House of Representatives or
268 Senate or by posting on a bulletin board provided for that purpose
269 by each body.

270 (5) When not in session, the meeting times and places of all
271 committees shall be kept by the Clerk of the House of
272 Representatives as to House committees and by the Secretary of the
273 Senate as to Senate committees, and shall be available at all
274 times during regular working hours to the public and news media.

275 **SECTION 8.** Section 25-41-15, Mississippi Code of 1972, is
276 brought forward as follows:

277 25-41-15. The Mississippi Ethics Commission shall have the
278 authority to enforce the provisions of this chapter upon a
279 complaint filed by any person. Upon receiving a complaint, the
280 commission shall forward a copy of the complaint to the head of
281 the public body involved. The public body shall have fourteen
282 (14) days from receipt of the complaint to file a response with
283 the commission. After receiving the response to the complaint or,
284 if no response is received after fourteen (14) days, the
285 commission, in its discretion, may dismiss the complaint or
286 proceed by setting a hearing in accordance with rules and
287 regulations promulgated by the Ethics Commission.



288 After a hearing, the Ethics Commission may order the public
289 body to take whatever reasonable measures necessary, if any, to
290 comply with this chapter. If the Ethics Commission finds that a
291 member or members of a public body has willfully and knowingly
292 violated the provisions of this chapter, the Ethics Commission may
293 impose a civil penalty upon the individual members of the public
294 body found to be in violation of the provisions of this chapter in
295 a sum not to exceed Five Hundred Dollars (\$500.00) for a first
296 offense and One Thousand Dollars (\$1,000.00) for a second or
297 subsequent offense, plus all reasonable expenses incurred by the
298 person or persons in bringing the complaint to enforce this
299 chapter.

300 Nothing in this chapter shall be construed to prohibit the
301 Ethics Commission from mediating or otherwise resolving disputes
302 arising under this chapter or from entering orders agreed to by
303 the parties. In carrying out its responsibilities under this
304 section, the Ethics Commission shall have all the powers and
305 authority granted to it in Title 25, Chapter 4, Mississippi Code
306 of 1972.

307 Any party may petition the chancery court of the county in
308 which the public body is located to enforce or appeal any order of
309 the Ethics Commission issued pursuant to this chapter. In any
310 such appeal the chancery court shall conduct a de novo review.

311 **SECTION 9.** Section 25-41-17, Mississippi Code of 1972, is
312 brought forward as follows:



313 25-41-17. The provisions of this chapter shall not apply to
314 chance meetings or social gatherings of members of a public body.

315 **SECTION 10.** This act shall take effect and be in force from
316 and after July 1, 2023.

