

By: Senator(s) Parker

To: Accountability,
Efficiency, Transparency

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2713

1 AN ACT TO BE KNOWN AS THE MISSISSIPPI RURAL REGIONAL HEALTH
2 AUTHORITIES ACT OF 2024; TO DECLARE THE LEGISLATIVE INTENT
3 REGARDING THE PURPOSE OF REGIONAL HEALTH AUTHORITIES; TO CREATE
4 THE DELTA REGIONAL HEALTH AUTHORITY; TO PROVIDE FOR THE
5 APPOINTMENT OF THE GOVERNING BOARD OF SUCH AUTHORITY; TO PROVIDE
6 FOR PARTICIPATION AGREEMENTS BETWEEN THE REGIONAL HEALTH AUTHORITY
7 AND THE OWNERS OF COMMUNITY HOSPITALS FOR THE HOSPITALS TO
8 PARTICIPATE IN THE REGIONAL HEALTH AUTHORITY; TO PROVIDE THAT
9 PARTICIPATING COMMUNITY HOSPITALS WILL NO LONGER BE GOVERNED BY
10 THE COMMUNITY HOSPITAL LAWS BUT WILL BE GOVERNED BY THE AUTHORITY
11 BOARD; TO PROVIDE THAT THE AUTHORITY BOARD MAY APPOINT A CHIEF
12 EXECUTIVE OFFICER OF THE AUTHORITY; TO SPECIFY THE POWERS AND
13 DUTIES OF THE CHIEF EXECUTIVE OFFICER; TO PROVIDE THAT THE
14 AUTHORITY BOARD SHALL HAVE ALL OF THE POWERS, AUTHORITY, RIGHTS,
15 PRIVILEGES AND IMMUNITIES CONFERRED ON THE OWNERS AND THE BOARDS
16 OF TRUSTEES OF COMMUNITY HOSPITALS; TO PRESCRIBE ADDITIONAL POWERS
17 AND DUTIES OF THE REGIONAL HEALTH AUTHORITY; TO PROVIDE THAT THE
18 AUTHORITY SHALL BE DEEMED A "GOVERNMENTAL ENTITY" AND "POLITICAL
19 SUBDIVISION" FOR THE PURPOSE OF THE TORT CLAIMS ACT; TO AUTHORIZE
20 THE AUTHORITY TO PARTICIPATE IN THE PUBLIC EMPLOYEES' RETIREMENT
21 SYSTEM AS A POLITICAL SUBDIVISION; TO PROVIDE THAT THE REGIONAL
22 HEALTH AUTHORITY SHALL BE TREATED AS A NONSTATE GOVERNMENTAL
23 HOSPITAL AND SHALL HAVE ALL RIGHTS, PRIVILEGES AND ENTITLEMENTS OF
24 A NONSTATE GOVERNMENTAL HOSPITAL FOR PURPOSES OF THE MISSISSIPPI
25 MEDICAID PROGRAM; TO DIRECT THE DIVISION OF MEDICAID TO CREATE AND
26 IMPLEMENT A SUPPLEMENTAL PAYMENT PROGRAM TO SUPPORT THE ESSENTIAL
27 SERVICES AND OPERATIONS OF THE DELTA REGIONAL HEALTH AUTHORITY; TO
28 PROVIDE THAT ANY CONSOLIDATION OR COLLABORATION INVOLVING A
29 REGIONAL HEALTH AUTHORITY AND OTHER PUBLIC, PRIVATE OR NONPROFIT
30 HOSPITALS, HEALTH CARE FACILITIES OR PROVIDERS SHALL BE IMMUNE
31 FROM LIABILITY UNDER THE FEDERAL AND STATE ANTITRUST OR
32 COMPETITION LAWS TO THE FULLEST EXTENT ALLOWED BY LAW; TO AMEND
33 SECTIONS 11-46-1, 41-7-173, 41-13-11, 41-13-15, 41-13-19,



34 41-13-35, 41-13-47 AND 41-13-101, MISSISSIPPI CODE OF 1972, TO
35 CONFORM TO THE PRECEDING PROVISIONS; AND FOR RELATED PURPOSES.

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

37 **SECTION 1. Short title.** Sections 1 through 19 of this act
38 shall be known and may be cited as the "Mississippi Rural Regional
39 Health Authority Act of 2024."

40 **SECTION 2. Legislative intent and general purposes.** The
41 Legislature finds and declares as follows:

42 (a) The health care needs of the residents of
43 Mississippi can be served by regional health authorities having
44 the legal, financial and operational flexibility to take full
45 advantage of opportunities and challenges presented by the
46 evolving health care environment and to take whatever actions are
47 necessary to enable the authority's continuation as a system that
48 provides the finest possible quality of care consistent with
49 reasonable costs.

50 (b) In this environment, a regional health authority
51 must have the ability to respond to changing conditions by having
52 the power to develop efficient and cost-effective methods and
53 structures to provide for health care needs, while maintaining a
54 public mission and character. Accordingly, the Legislature finds
55 that there is a compelling interest in establishing a structure
56 and process for community hospitals to become part of and
57 participate in a regional health authority, in order to be able to
58 adapt to this dynamic environment, to operate efficiently, to
59 offer competitive health care services, to respond more



60 effectively to new developments and regulatory changes in the
61 health care area, and to continue to serve and promote the health,
62 wellness and welfare of the citizens of Mississippi. The general
63 purpose of this act is to achieve these objectives and promote the
64 public health and welfare of the residents of Mississippi by
65 allowing a community hospital to participate in a regional health
66 authority and to operate as provided in this act. The regional
67 health authority established under this act shall be a public and
68 governmental body, and a political subdivision of the state. The
69 operation of the regional health authority is declared to be for a
70 public and governmental purpose and a matter of public necessity.

71 (c) The geographic areas to be served by the regional
72 health authority include rural populations and other groups that
73 experience significant health disparities. Health disparities are
74 differences in health status when compared to the population
75 overall, often characterized by indicators such as higher
76 incidence of disease and/or disability, increased mortality rates,
77 and lower life expectancies. Rural risk factors for health
78 disparities include geographic isolation, lower socioeconomic
79 status, higher rates of health risk behaviors, and limited access
80 to health care specialists and subspecialists. As a result of
81 these health disparities, the residents of the area to be served
82 by the regional health authority have high rates of mortality and
83 morbidity, heart disease, cancer, and other illnesses. The region
84 also includes a high percentage of uninsured individuals and



85 Medicaid patients, which are medically underserved groups.
86 Community hospitals that currently serve this area have
87 demonstrated their ability to provide high-quality health care and
88 to improve health conditions and outcomes as well as access to
89 care. The participation of community hospitals in a regional
90 health authority will significantly strengthen their ability to
91 serve the health care needs of the residents of the region.

92 (d) The regional health authority's investment of
93 significant public assets and its efforts to provide high-quality
94 health care services to medically underserved populations are
95 jeopardized by the authority's potential limits on its ability to
96 collaborate and consolidate with other public and private health
97 care facilities and providers. The Legislature expressly finds
98 that the benefits of collaboration and consolidation by the
99 regional health authority outweigh any adverse impact on
100 competition. The benefits of the regional health authority's
101 efforts to collaborate and consolidate include, but are not
102 limited to, preserving and expanding needed health care services
103 in its service area; consolidating unneeded or duplicative health
104 care services; enhancing the quality of, and expanding access to,
105 health care delivered to medically underserved and rural
106 populations; and lowering costs and improving the efficiency of
107 the health care services it delivers. Based on the findings
108 contained in this section, the Legislature affirmatively expresses
109 a policy to allow the regional health authority to consolidate



110 with, or facilitate the consolidation among, other public,
111 private, for-profit and nonprofit hospitals, health care
112 facilities and providers, and to engage in collaborative
113 activities consistent with their health care purposes,
114 notwithstanding that those consolidations and collaborations may
115 have the effect of displacing competition in the provision of
116 hospital or other health care-related services. In engaging in
117 such consolidations and collaborations with other public, private,
118 for-profit or nonprofit hospitals, health care facilities and
119 providers, the regional health authority shall be considered to be
120 acting pursuant to clearly articulated state policy as established
121 in this section and shall not be subject to federal or state
122 antitrust laws while so acting. With respect to the
123 consolidations, collaborative activities and other activities
124 contemplated in this section, the regional health authority and
125 the public, private, for-profit and nonprofit entities with which
126 it consolidates, collaborates, or enters into any of the
127 transactions set forth in this act, shall be immune from liability
128 under the federal and state antitrust laws and those activities
129 are provided with state action immunity from federal and state
130 antitrust laws to the fullest extent possible.

131 (e) The goals and objectives of the regional health
132 authority include, but are not limited to:

133 (i) Maintaining essential health services;

134 (ii) Retaining an essential workforce;



135 (iii) Attaining financial sustainability;
136 (iv) Maximizing public reimbursement
137 opportunities;
138 (v) Enhancing outpatient health services;
139 (vi) Achieving economies of scale and skill; and
140 (vii) Identifying skilled and resourceful
141 affiliation partners.

142 (f) It is the intent of the Legislature that this act
143 be construed broadly so as to give effect to the intent, purposes
144 and findings described in this section.

145 **SECTION 3. Definitions.** As used in this act, the following
146 words and phrases have the meanings as defined in this section
147 unless the context clearly indicates otherwise:

148 (a) "Authority" or "regional health authority" means a
149 public body established in accordance with this act for the
150 purposes and with the powers set forth in this act, and includes,
151 but is not limited to, the Delta Regional Health Authority.

152 (b) "Authority board" means the governing board of a
153 regional health authority, including the organizational board of
154 the authority and/or the operational board of the authority.

155 (c) "Community hospital" has the meaning as defined in
156 Section 41-13-10(c).

157 (d) "Community hospital board" or "board of trustees"
158 means the board of trustees of a community hospital.



159 (e) "Health care facility" means and includes
160 hospitals, psychiatric hospitals, chemical dependency hospitals,
161 skilled nursing facilities, end-stage renal disease facilities,
162 ambulatory surgical facilities, home health agencies,
163 comprehensive medical rehabilitation facilities, and all other
164 facilities and programs established or operated for the provision
165 or offering of health care services and related services.

166 (f) "Mississippi Delta" means and includes the
167 following Mississippi counties: Bolivar, Carroll, Coahoma,
168 Grenada, Holmes, Humphreys, Leflore, Panola, Quitman, Sharkey,
169 Issaquena, Sunflower, Tallahatchie, Tate, Tunica, Warren,
170 Washington and Yazoo.

171 (g) "Owner" has the meaning as defined in Section
172 41-13-10(d).

173 (h) "Participation agreement" means the
174 intergovernmental participation agreement between the authority
175 board and the owner of a community hospital participating in the
176 authority.

177 **SECTION 4. Establishment of regional health authorities.**

178 There is created the Delta Regional Health Authority, which shall
179 be established and operated as a regional health authority as set
180 forth in this act. The Legislature finds and declares that there
181 is a critical and immediate need for the establishment of a
182 regional health authority in the Mississippi Delta in order to
183 address the health care needs of that region. All provisions of



184 this act that refer or apply to a regional health authority shall
185 apply to the Delta Regional Health Authority.

186 **SECTION 5. Authority board.** (1) The organizational board
187 of the Delta Regional Health Authority shall consist of three (3)
188 members appointed by the Governor and two (2) members appointed by
189 the Lieutenant Governor, with the advice and consent of the
190 Senate. At least two (2) of the members appointed by the Governor
191 must be adult legal residents of the Mississippi Delta. At least
192 one (1) of the members appointed by the Lieutenant Governor must
193 be adult legal residents of the Mississippi Delta. All appointed
194 members must be adult legal residents of the State of Mississippi
195 and must have significant, demonstrated experience in business
196 management, fiscal affairs or public health.

197 (2) Appointments to the authority board shall reflect the
198 racial and ethnic diversity of such region. The members of the
199 organizational board of the authority shall be responsible for the
200 formation, organization and implementation of the regional health
201 authority and shall serve until such time as one or more community
202 hospitals have entered into participation agreements as provided
203 for in Section 6 of this act.

204 (3) Once the authority has entered into its participation
205 agreement, the authority organizational board shall become an
206 operational board. The operational board shall consist of the
207 organizational board appointed by the Governor and Lieutenant
208 Governor and no more than six (6) additional members, as provided



209 in the participation agreement. A majority of the members of the
210 operational board of the Delta Regional Health Authority shall be
211 adult legal residents of the Mississippi Delta. The remaining
212 members shall be at-large adult legal residents of Mississippi.
213 Future members of the board of the Delta Regional Health Authority
214 shall be appointed as provided in the participation agreements.

215 (4) The members of the authority board set forth in the
216 participation agreement shall serve for staggered terms, and with
217 no member serving a term longer than four (4) years; however, any
218 member of the authority board may be reappointed to serve for two
219 (2) additional consecutive terms. After the expiration of the
220 initial staggered terms, all succeeding terms shall be for four
221 (4) years from the expiration date of the previous term. Any
222 vacancy on the authority board shall be filled by the authority
223 board within ninety (90) days of the vacancy for the remainder of
224 the unexpired term.

225 (5) All members of the authority board shall serve without
226 pay except for their actual travel expenses and other necessary
227 expenses incurred in the performance of their official duties, to
228 be reimbursed as in the case of state employees under the
229 provisions of Section 25-3-41.

230 (6) All meetings of the authority board shall be subject to
231 the Open Meetings Act in Section 25-41-1 et seq. The chief
232 executive officer or a majority of members of the authority board
233 may convene the board for a meeting.



234 (7) Except as may be otherwise provided by law, all records
235 of the authority board shall be deemed public records and subject
236 to public inspection as provided by Section 25-61-1 et seq.

237 **SECTION 6. Intergovernmental participation agreement.** (1)

238 The Delta Regional Health Authority may enter into a participation
239 agreement with the owner of one or more community hospitals that
240 will establish the key elements of the relationships among the
241 authority, the owner and the board of trustees of a community
242 hospital, including, but not limited to:

243 (a) The powers and duties delegated to the board of
244 trustees of the community hospital by the authority board, which
245 shall include, but not be limited to, the responsibility for
246 medical staff credentialing and appointments, and oversight of the
247 quality of health care services provided by the community
248 hospital;

249 (b) The term of office of the members of the board of
250 trustees;

251 (c) The names and addresses of the initial members of
252 the board of trustees;

253 (d) The grounds for the removal or replacement of a
254 member of the board of trustees by the authority board;

255 (e) Governance of the authority and the community
256 hospital;

257 (f) Covenants for essential health services;



258 (g) Any lease or conveyance of real estate, equipment
259 and other assets;

260 (h) Any assumption of existing indebtedness or
261 contracts;

262 (i) Employee commitments, including continued
263 employment and benefit; and

264 (j) All other matters relating to the relationships
265 among the authority board, the owner and the board of trustees.

266 (2) The participation agreement will include, as parties,
267 the authority board, the governing board of the owner of the
268 community hospital participating in the authority, and the board
269 of trustees of the community hospital.

270 **SECTION 7. Participating community hospitals and boards of**
271 **trustees.** All community hospitals that become participants in the
272 regional health authority shall be governed by this act, and shall
273 no longer be governed by or subject to Sections 41-13-10 through
274 41-13-53 or Sections 41-13-101 through 41-13-107, except as
275 amended by or otherwise provided in this act. Additionally, all
276 community hospitals that become participants in the regional
277 health authority shall be governed by the authority board, and the
278 boards of trustees of the community hospital participants shall
279 have such powers as are expressly delegated to the community
280 hospital board by the authority board. The initial members of the
281 board of trustees of a community hospital participating in the
282 regional health authority shall consist of five (5) members, who



283 shall be designated in the participation agreement between the
284 authority and the owner of the community hospital. Following the
285 appointment of the initial members of the board of trustees, as
286 designated in the participation agreement, all subsequent members
287 of the board of trustees shall be appointed by the authority
288 board.

289 **SECTION 8. Community hospital licenses, permits, regulatory**
290 **rights and assets.** Each community hospital participating in a
291 regional health authority shall retain and maintain its existing
292 licenses, permits, Medicare and Medicaid provider numbers, tax
293 identification numbers and all other regulatory rights and
294 interests. The participation of a community hospital in a
295 regional health authority shall not constitute a "change of
296 ownership" under Section 41-7-171 et seq. (the Mississippi
297 Certificate of Need Law of 1979) or Section 43-13-101 et seq. (the
298 Mississippi Medicaid Law), or any implementing regulations under
299 those sections.

300 **SECTION 9. Appointment and powers of authority chief**
301 **executive officer.** (1) The authority board may appoint a chief
302 executive officer of the authority, who shall be an employee of
303 the authority and serve at the pleasure of the authority board.
304 The authority board may enter into a contract of employment with a
305 chief executive officer for a term not to exceed five (5) years,
306 but which may be renewed for an additional term or terms of five
307 (5) years each; however, the contract of employment may be



308 terminated by the authority board at any time, with or without
309 cause.

310 (2) Subject to any conflicting bylaws, resolutions, rules or
311 regulations adopted by the authority board, the chief executive
312 officer's duties and powers shall include, but not be limited to,
313 the following:

314 (a) To employ and discharge employees as needed for the
315 efficient performance of the business of the authority and to
316 prescribe their duties;

317 (b) To supervise and control the records, accounts,
318 buildings and property of the authority and all internal affairs,
319 and maintain discipline therein, and enforce compliance with and
320 obedience to all rules, bylaws and regulations adopted by the
321 authority board for the government, discipline and management of
322 the authority and its employees and staff;

323 (c) To attend meetings of the authority board and to
324 keep its members advised of authority business;

325 (d) To appoint the administrators of the community
326 hospitals participating in the authority; and

327 (e) To exercise any of the powers of the authority
328 board that have been delegated, by resolution or through authority
329 board bylaws, to the chief executive officer.

330 **SECTION 10. Certain powers and authority of owners and**
331 **boards of trustees of community hospitals granted to board of**
332 **regional health authority.** The board of the regional health



333 authority shall have and assume the powers, authority, rights,
334 privileges and immunities conferred on the owners and the boards
335 of trustees of community hospitals, respectively, as set forth in
336 Sections 41-13-10 through 41-13-53 and Sections 41-13-101 through
337 41-13-107, except as amended by or otherwise provided in this act,
338 and also except as follows:

339 (a) Any contract for the purchase of real property by
340 the authority board shall not require ratification or approval by
341 any owner;

342 (b) The borrowing authority of the authority board
343 shall not be subject to any limitation, restriction or prior
344 approval by any owner; and

345 (c) The authority board shall not be required to submit
346 to any owner a proposed budget for the ensuing fiscal year, as set
347 forth in Section 41-13-47, and the authority board shall not be
348 required to obtain the approval of any budget by any owner; and

349 (d) The authority board shall not be required to file
350 with any owner a full fiscal year report, as set forth in Section
351 41-13-47.

352 **SECTION 11. Additional powers of the authority board.** In
353 addition to the powers otherwise granted by this act or any other
354 act or law of this state, or by any state regulation or federal
355 law or regulation, and to the extent at the time not prohibited by
356 the Constitution of Mississippi, in order to achieve the important
357 health care purposes of this act, the authority board shall have,



358 together with all powers incidental thereto or necessary to
359 discharge the powers granted specifically in this act, the
360 following powers and authority:

361 (a) To develop a strategic plan for the authority and
362 the community hospitals participating in the authority;

363 (b) To determine the addition or discontinuation of any
364 and all health care services and programs offered by community
365 hospitals participating in the authority;

366 (c) To request or apply for, receive and expend any
367 federal or state appropriations, grants, Medicaid program
368 payments, or other payments or money of any amount or nature;

369 (d) To sue and be sued in its own name in civil suits
370 and actions, and to defend suits and actions against it, subject,
371 however, to Sections 11-46-1 through 11-46-23, which are made
372 applicable to the authority;

373 (e) To adopt, alter, amend and repeal bylaws, rules and
374 regulations, not inconsistent with the provisions of this act, for
375 the regulation and conduct of its affairs and business;

376 (f) To acquire, construct, reconstruct, equip, enlarge,
377 expand, alter, repair, improve, maintain, equip, furnish and
378 operate health care facilities at such place or places, within and
379 without the state, as it considers necessary or advisable;

380 (g) To lease or otherwise make available any health
381 care facilities or other of its properties and assets to such
382 persons, firms, partnerships, associations or corporations and on



383 such terms as the authority board deems to be appropriate, to
384 charge and collect rent or other fees or charges therefor and to
385 terminate any such lease or other agreement upon the failure of
386 the lessee or other party thereto to comply with any of its
387 obligations under the lease or agreement;

388 (h) To receive, acquire, take and hold (whether by
389 purchase, gift, transfer, foreclosure, lease, devise, option or
390 otherwise) real and personal property of every description, or any
391 interest therein, and to manage, improve and dispose of the same
392 by any form of legal conveyance or transfer;

393 (i) To mortgage, pledge or otherwise convey its
394 property and its revenues from any source;

395 (j) To borrow money in order to provide funds for any
396 lawful authority function, use or purpose and, in evidence of such
397 borrowing, to sell and issue interest-bearing securities in the
398 manner provided and subject to the limitations set forth
399 hereinafter;

400 (k) To pledge for payment of any of its securities any
401 revenues (including proceeds from any hospital tax to which it may
402 be entitled) and to mortgage or pledge any or all of its health
403 care facilities or other assets or properties or any part or parts
404 thereof, whether then owned or thereafter acquired, as security
405 for the payment of the principal of and the interest and premium,
406 if any, on any securities so issued and any agreements made in
407 connection with such securities;



408 (1) To provide instruction and training for, and to
409 contract for the instruction and training of, nurses, technicians
410 and other technical, professional and paramedical personnel;

411 (m) To affiliate with, and to contract to provide
412 training and clinical experience for students of, other
413 institutions;

414 (n) To contract for the operation of any department,
415 section, equipment or holdings of the authority, and to enter into
416 agreements with any person, firm or corporation for the management
417 by that person, firm or corporation on behalf of the authority of
418 any of its properties or for the more efficient or economical
419 performance of clerical, accounting, administrative and other
420 functions relating to its health care facilities;

421 (o) To establish, collect and alter charges for
422 services rendered and supplies furnished by it;

423 (p) To make all needful or appropriate rules and
424 regulations for the conduct of any health care facilities and
425 other properties owned or operated by it and to alter such rules
426 and regulations;

427 (q) To provide for such insurance as the business of
428 the authority may require;

429 (r) To receive and accept from any source, any type of
430 aid or contributions in the form of money, property, labor or
431 other things of value, to be held, used and applied to carry out



432 the purposes of this act, subject to any lawful condition upon
433 which any such aid or contributions may be given or made;

434 (s) To cooperate with the State Board of Health and the
435 State Department of Health and to make contracts with either of
436 those agencies respecting the operation of any health care
437 facilities or other properties owned or operated by it, whether as
438 an agent for either or both of those agencies or otherwise;

439 (t) To enter into contracts with, to accept aid, loans
440 and grants from, to cooperate with and to do any and all things
441 not specifically prohibited by this act or the Constitution of
442 Mississippi that may be necessary in order to avail itself of the
443 aid and cooperation of the United States of America, the state,
444 any county or municipality, or any agency, instrumentality or
445 political subdivision of any of the foregoing in furtherance of
446 the purposes of this article; to give such assurances, contractual
447 or otherwise, to or for the benefit of any of the foregoing as may
448 be required in connection with, or as conditions precedent to the
449 receipt of, any such aid, loan or grant; and to take such action
450 not in violation of law as may be necessary in order to qualify
451 the authority to receive funds appropriated by any of the
452 foregoing;

453 (u) To give such assurances, contractual or otherwise,
454 and to make such commitments and agreements as may be necessary or
455 desirable to preclude the exercise of any rights of recovery with
456 respect to, or the forfeiture of title to, any of its health care



457 facilities or other property or any health care facilities or
458 other property proposed to be acquired by it;

459 (v) To make and alter rules and regulations for the
460 treatment of indigent patients;

461 (w) To assume any obligations of any entity that
462 conveys and transfers to the authority any health care facilities
463 or other property, or interest therein, provided that such
464 obligations appertain to the health care facilities, property or
465 interest so conveyed and transferred to the authority;

466 (x) To assume, establish, fund and maintain retirement,
467 pension or other employee benefit plans for its employees;

468 (y) To appoint, employ, contract with, and provide for
469 the compensation of, such employees and agents, including, but not
470 limited to, architects, attorneys, consultants, engineers,
471 accountants, financial experts, fiscal agents and such other
472 advisers, consultants and agents as the business of the authority
473 may require;

474 (z) To enter into affiliation, cooperation,
475 territorial, management or other similar agreements with other
476 institutions (public or private) for the sharing, division,
477 allocation or exclusive furnishing of services, referral of
478 patients, management of facilities and other similar activities;

479 (aa) To exercise all powers granted under this section
480 in such a manner as the regional health authority, through the
481 authority board, may determine to be consistent with the purposes



482 of this act, including the state action immunity provided by
483 Section 2 of this act from state and federal antitrust laws to the
484 fullest extent possible, notwithstanding that as a consequence of
485 such exercise of such powers it engages in activities that may be
486 deemed "anticompetitive" or which displace competition within the
487 meaning or contemplation of the antitrust laws of this state or of
488 the United States; and

489 (bb) To enter into such contracts, agreements, leases
490 and other instruments, and to take such other actions, as may be
491 necessary or convenient to accomplish any purpose for which the
492 authority was organized or to exercise any power expressly granted
493 hereunder.

494 **SECTION 12. Liability and insurance.** The authority board is
495 authorized, in its discretion, to obtain and pay for, out of
496 operating funds of the authority, liability insurance as described
497 in Section 41-13-11.

498 **SECTION 13. Immunity of authority from liability and suit.**
499 The authority shall be deemed a "governmental entity" and
500 "political subdivision" as defined in Section 11-46-1, and as
501 such, shall be entitled to all of the rights, privileges, benefits
502 and immunities set forth in Sections 11-46-1 through 11-46-23, and
503 shall be subject to all terms and provisions of those sections.

504 **SECTION 14. Issuance of bonds.** The authority is authorized
505 and empowered to make appropriations of funds and to issue and
506 sell bonds, notes or other evidences of indebtedness thereof, for



507 the benefit of the authority, in the same manner as, and subject
508 to all duties, obligations and provisions set forth in Sections
509 41-13-19, 41-13-21, 41-13-23, 41-13-24 and 41-13-25.

510 **SECTION 15. Trust to insure against public liability claims.**

511 The authority is authorized to establish, maintain, administer and
512 operate any trust as described in Section 41-13-101 and, in such
513 event, shall be subject to the terms, provisions and requirements
514 of Sections 41-13-101 through 41-13-107.

515 **SECTION 16. Retirement and disability benefits.** The
516 authority established under this act is authorized to participate
517 in the Public Employees' Retirement System as a political
518 subdivision under the provisions of Section 25-11-105(f).

519 **SECTION 17. Lease or sale of community hospitals.** The
520 authority established under this act shall not be subject to the
521 provisions of Sections 41-13-15(7) through 41-13-15(11).

522 **SECTION 18. Medicaid.** The authority established under this
523 act shall be treated as a non-state governmental hospital, and
524 shall have all rights, privileges and entitlements of a nonstate
525 governmental hospital for purposes of the Mississippi Medicaid
526 program and its implementing statutes and regulations. The
527 Division of Medicaid is authorized and directed to create and
528 implement a supplemental payment program to support the essential
529 services and operations of the Delta Regional Health Authority
530 created by this act.



531 **SECTION 19.** **Implied powers.** In addition to all of the other
532 powers conferred upon it in this act, the regional health
533 authority may do all things necessary and convenient to carry out
534 the powers expressly given in this act not inconsistent with the
535 provisions of any other law, except as otherwise provided in this
536 act.

537 **SECTION 20.** Section 11-46-1, Mississippi Code of 1972, is
538 amended as follows:

539 11-46-1. As used in this chapter, the following terms shall
540 have the meanings ascribed unless the context otherwise requires:

541 (a) "Claim" means any demand to recover damages from a
542 governmental entity as compensation for injuries.

543 (b) "Claimant" means any person seeking compensation
544 under the provisions of this chapter, whether by administrative
545 remedy or through the courts.

546 (c) "Board" means the Mississippi Tort Claims Board.

547 (d) "Department" means the Department of Finance and
548 Administration.

549 (e) "Director" means the executive director of the
550 department who is also the executive director of the board.

551 (f) "Employee" means any officer, employee or servant
552 of the State of Mississippi or a political subdivision of the
553 state, including elected or appointed officials and persons acting
554 on behalf of the state or a political subdivision in any official
555 capacity, temporarily or permanently, in the service of the state



556 or a political subdivision whether with or without compensation,
557 including firefighters who are members of a volunteer fire
558 department that is a political subdivision. The term "employee"
559 shall not mean a person or other legal entity while acting in the
560 capacity of an independent contractor under contract to the state
561 or a political subdivision; and

562 (i) For purposes of the limits of liability
563 provided for in Section 11-46-15, the term "employee" shall
564 include:

565 1. Physicians under contract to provide
566 health services with the State Board of Health, the State Board of
567 Mental Health or any county or municipal jail facility while
568 rendering services under the contract;

569 2. Any physician, dentist or other health
570 care practitioner employed by the University of Mississippi
571 Medical Center (UMMC) and its departmental practice plans who is a
572 faculty member and provides health care services only for patients
573 at UMMC or its affiliated practice sites, including any physician
574 or other health care practitioner employed by UMMC under an
575 arrangement with a public or private health-related organization;

576 3. Any physician, dentist or other health
577 care practitioner employed by any university under the control of
578 the Board of Trustees of State Institutions of Higher Learning who
579 practices only on the campus of any university under the control
580 of the Board of Trustees of State Institutions of Higher Learning;



581 4. Any physician, dentist or other health
582 care practitioner employed by the State Veterans Affairs Board and
583 who provides health care services for patients for the State
584 Veterans Affairs Board;

585 (ii) The term "employee" shall also include
586 Mississippi Department of Child Protection Services licensed
587 foster parents for the limited purposes of coverage under the Tort
588 Claims Act as provided in Section 11-46-8; and

589 (iii) The term "employee" also shall include any
590 employee or member of the governing board of a charter school but
591 shall not include any person or entity acting in the capacity of
592 an independent contractor to provide goods or services under a
593 contract with a charter school.

594 (g) "Governmental entity" means the state and political
595 subdivisions.

596 (h) "Injury" means death, injury to a person, damage to
597 or loss of property or any other injury that a person may suffer
598 that is actionable at law or in equity.

599 (i) "Political subdivision" means any body politic or
600 body corporate other than the state responsible for governmental
601 activities only in geographic areas smaller than that of the
602 state, including, but not limited to, any county, municipality,
603 school district, charter school, volunteer fire department that is
604 a chartered nonprofit corporation providing emergency services
605 under contract with a county or municipality, community hospital



606 as defined in Section 41-13-10, regional health authority as
607 defined in Section 3 of this act, airport authority, or other
608 instrumentality of the state, whether or not the body or
609 instrumentality has the authority to levy taxes or to sue or be
610 sued in its own name.

611 (j) "State" means the State of Mississippi and any
612 office, department, agency, division, bureau, commission, board,
613 institution, hospital, college, university, airport authority or
614 other instrumentality thereof, whether or not the body or
615 instrumentality has the authority to levy taxes or to sue or be
616 sued in its own name.

617 (k) "Law" means all species of law, including, but not
618 limited to, any and all constitutions, statutes, case law, common
619 law, customary law, court order, court rule, court decision, court
620 opinion, court judgment or mandate, administrative rule or
621 regulation, executive order, or principle or rule of equity.

622 **SECTION 21.** Section 41-7-173, Mississippi Code of 1972, is
623 amended as follows:

624 41-7-173. For the purposes of Section 41-7-171 et seq., the
625 following words shall have the meanings ascribed herein, unless
626 the context otherwise requires:

627 (a) "Affected person" means (i) the applicant; (ii) a
628 person residing within the geographic area to be served by the
629 applicant's proposal; (iii) a person who regularly uses health
630 care facilities or HMOs located in the geographic area of the



631 proposal which provide similar service to that which is proposed;
632 (iv) health care facilities and HMOs which have, prior to receipt
633 of the application under review, formally indicated an intention
634 to provide service similar to that of the proposal being
635 considered at a future date; (v) third-party payers who reimburse
636 health care facilities located in the geographical area of the
637 proposal; or (vi) any agency that establishes rates for health
638 care services or HMOs located in the geographic area of the
639 proposal.

640 (b) "Certificate of need" means a written order of the
641 State Department of Health setting forth the affirmative finding
642 that a proposal in prescribed application form, sufficiently
643 satisfies the plans, standards and criteria prescribed for such
644 service or other project by Section 41-7-171 et seq., and by rules
645 and regulations promulgated thereunder by the State Department of
646 Health.

647 (c) (i) "Capital expenditure," when pertaining to
648 defined major medical equipment, shall mean an expenditure which,
649 under generally accepted accounting principles consistently
650 applied, is not properly chargeable as an expense of operation and
651 maintenance and which exceeds One Million Five Hundred Thousand
652 Dollars (\$1,500,000.00).

653 (ii) "Capital expenditure," when pertaining to
654 other than major medical equipment, shall mean any expenditure
655 which under generally accepted accounting principles consistently



656 applied is not properly chargeable as an expense of operation and
657 maintenance and which exceeds, for clinical health services, as
658 defined in * * * paragraph (k) below, Five Million Dollars
659 (\$5,000,000.00), adjusted for inflation as published by the State
660 Department of Health or which exceeds, for nonclinical health
661 services, as defined in * * * paragraph (k) below, Ten Million
662 Dollars (\$10,000,000.00), adjusted for inflation as published by
663 the State Department of Health.

664 (iii) A "capital expenditure" shall include the
665 acquisition, whether by lease, sufferance, gift, devise, legacy,
666 settlement of a trust or other means, of any facility or part
667 thereof, or equipment for a facility, the expenditure for which
668 would have been considered a capital expenditure if acquired by
669 purchase. Transactions which are separated in time but are
670 planned to be undertaken within twelve (12) months of each other
671 and are components of an overall plan for meeting patient care
672 objectives shall, for purposes of this definition, be viewed in
673 their entirety without regard to their timing.

674 (iv) In those instances where a health care
675 facility or other provider of health services proposes to provide
676 a service in which the capital expenditure for major medical
677 equipment or other than major medical equipment or a combination
678 of the two (2) may have been split between separate parties, the
679 total capital expenditure required to provide the proposed service
680 shall be considered in determining the necessity of certificate of



681 need review and in determining the appropriate certificate of need
682 review fee to be paid. The capital expenditure associated with
683 facilities and equipment to provide services in Mississippi shall
684 be considered regardless of where the capital expenditure was
685 made, in state or out of state, and regardless of the domicile of
686 the party making the capital expenditure, in state or out of
687 state.

688 (d) "Change of ownership" includes, but is not limited
689 to, inter vivos gifts, purchases, transfers, lease arrangements,
690 cash and/or stock transactions or other comparable arrangements
691 whenever any person or entity acquires or controls a majority
692 interest of an existing health care facility, and/or the change of
693 ownership of major medical equipment, a health service, or an
694 institutional health service. Changes of ownership from
695 partnerships, single proprietorships or corporations to another
696 form of ownership are specifically included. However, "change of
697 ownership" shall not include any inherited interest acquired as a
698 result of a testamentary instrument or under the laws of descent
699 and distribution of the State of Mississippi; and shall not
700 include the participation of a community hospital in a regional
701 health authority as provided in Sections 1 through 19 of this act.

702 (e) "Commencement of construction" means that all of
703 the following have been completed with respect to a proposal or
704 project proposing construction, renovating, remodeling or
705 alteration:



706 (i) A legally binding written contract has been
707 consummated by the proponent and a lawfully licensed contractor to
708 construct and/or complete the intent of the proposal within a
709 specified period of time in accordance with final architectural
710 plans which have been approved by the licensing authority of the
711 State Department of Health;

712 (ii) Any and all permits and/or approvals deemed
713 lawfully necessary by all authorities with responsibility for such
714 have been secured; and

715 (iii) Actual bona fide undertaking of the subject
716 proposal has commenced, and a progress payment of at least one
717 percent (1%) of the total cost price of the contract has been paid
718 to the contractor by the proponent, and the requirements of this
719 paragraph (e) have been certified to in writing by the State
720 Department of Health.

721 Force account expenditures, such as deposits, securities,
722 bonds, et cetera, may, in the discretion of the State Department
723 of Health, be excluded from any or all of the provisions of
724 defined commencement of construction.

725 (f) "Consumer" means an individual who is not a
726 provider of health care as defined in paragraph (q) of this
727 section.

728 (g) "Develop," when used in connection with health
729 services, means to undertake those activities which, on their
730 completion, will result in the offering of a new institutional



731 health service or the incurring of a financial obligation as
732 defined under applicable state law in relation to the offering of
733 such services.

734 (h) "Health care facility" includes hospitals,
735 psychiatric hospitals, chemical dependency hospitals, skilled
736 nursing facilities, end-stage renal disease (ESRD) facilities,
737 including freestanding hemodialysis units, intermediate care
738 facilities, ambulatory surgical facilities, intermediate care
739 facilities for the mentally retarded, home health agencies,
740 psychiatric residential treatment facilities, pediatric skilled
741 nursing facilities, long-term care hospitals, comprehensive
742 medical rehabilitation facilities, including facilities owned or
743 operated by the state or a political subdivision or
744 instrumentality of the state, but does not include Christian
745 Science sanatoriums operated or listed and certified by the First
746 Church of Christ, Scientist, Boston, Massachusetts. This
747 definition shall not apply to facilities for the private practice,
748 either independently or by incorporated medical groups, of
749 physicians, dentists or health care professionals except where
750 such facilities are an integral part of an institutional health
751 service. The various health care facilities listed in this
752 paragraph shall be defined as follows:

753 (i) "Hospital" means an institution which is
754 primarily engaged in providing to inpatients, by or under the
755 supervision of physicians, diagnostic services and therapeutic



756 services for medical diagnosis, treatment and care of injured,
757 disabled or sick persons, or rehabilitation services for the
758 rehabilitation of injured, disabled or sick persons. Such term
759 does not include psychiatric hospitals.

760 (ii) "Psychiatric hospital" means an institution
761 which is primarily engaged in providing to inpatients, by or under
762 the supervision of a physician, psychiatric services for the
763 diagnosis and treatment of persons with mental illness.

764 (iii) "Chemical dependency hospital" means an
765 institution which is primarily engaged in providing to inpatients,
766 by or under the supervision of a physician, medical and related
767 services for the diagnosis and treatment of chemical dependency
768 such as alcohol and drug abuse.

769 (iv) "Skilled nursing facility" means an
770 institution or a distinct part of an institution which is
771 primarily engaged in providing to inpatients skilled nursing care
772 and related services for patients who require medical or nursing
773 care or rehabilitation services for the rehabilitation of injured,
774 disabled or sick persons.

775 (v) "End-stage renal disease (ESRD) facilities"
776 means kidney disease treatment centers, which includes
777 freestanding hemodialysis units and limited care facilities. The
778 term "limited care facility" generally refers to an
779 off-hospital-premises facility, regardless of whether it is
780 provider or nonprovider operated, which is engaged primarily in



781 furnishing maintenance hemodialysis services to stabilized
782 patients.

783 (vi) "Intermediate care facility" means an
784 institution which provides, on a regular basis, health-related
785 care and services to individuals who do not require the degree of
786 care and treatment which a hospital or skilled nursing facility is
787 designed to provide, but who, because of their mental or physical
788 condition, require health-related care and services (above the
789 level of room and board).

790 (vii) "Ambulatory surgical facility" means a
791 facility primarily organized or established for the purpose of
792 performing surgery for outpatients and is a separate identifiable
793 legal entity from any other health care facility. Such term does
794 not include the offices of private physicians or dentists, whether
795 for individual or group practice, and does not include any
796 abortion facility as defined in Section 41-75-1(f).

797 (viii) "Intermediate care facility for the
798 mentally retarded" means an intermediate care facility that
799 provides health or rehabilitative services in a planned program of
800 activities to persons with an intellectual disability, also
801 including, but not limited to, cerebral palsy and other conditions
802 covered by the Federal Developmentally Disabled Assistance and
803 Bill of Rights Act, Public Law 94-103.

804 (ix) "Home health agency" means a public or
805 privately owned agency or organization, or a subdivision of such



806 an agency or organization, properly authorized to conduct business
807 in Mississippi, which is primarily engaged in providing to
808 individuals at the written direction of a licensed physician, in
809 the individual's place of residence, skilled nursing services
810 provided by or under the supervision of a registered nurse
811 licensed to practice in Mississippi, and one or more of the
812 following services or items:

- 813 1. Physical, occupational or speech therapy;
- 814 2. Medical social services;
- 815 3. Part-time or intermittent services of a
816 home health aide;
- 817 4. Other services as approved by the
818 licensing agency for home health agencies;
- 819 5. Medical supplies, other than drugs and
820 biologicals, and the use of medical appliances; or
- 821 6. Medical services provided by an intern or
822 resident-in-training at a hospital under a teaching program of
823 such hospital.

824 Further, all skilled nursing services and those services
825 listed in items 1 through 4 of this subparagraph (ix) must be
826 provided directly by the licensed home health agency. For
827 purposes of this subparagraph, "directly" means either through an
828 agency employee or by an arrangement with another individual not
829 defined as a health care facility.



830 This subparagraph (ix) shall not apply to health care
831 facilities which had contracts for the above services with a home
832 health agency on January 1, 1990.

833 (x) "Psychiatric residential treatment facility"
834 means any nonhospital establishment with permanent licensed
835 facilities which provides a twenty-four-hour program of care by
836 qualified therapists, including, but not limited to, duly licensed
837 mental health professionals, psychiatrists, psychologists,
838 psychotherapists and licensed certified social workers, for
839 emotionally disturbed children and adolescents referred to such
840 facility by a court, local school district or by the Department of
841 Human Services, who are not in an acute phase of illness requiring
842 the services of a psychiatric hospital, and are in need of such
843 restorative treatment services. For purposes of this
844 subparagraph, the term "emotionally disturbed" means a condition
845 exhibiting one or more of the following characteristics over a
846 long period of time and to a marked degree, which adversely
847 affects educational performance:

848 1. An inability to learn which cannot be
849 explained by intellectual, sensory or health factors;

850 2. An inability to build or maintain
851 satisfactory relationships with peers and teachers;

852 3. Inappropriate types of behavior or
853 feelings under normal circumstances;



854 4. A general pervasive mood of unhappiness or
855 depression; or

856 5. A tendency to develop physical symptoms or
857 fears associated with personal or school problems. An
858 establishment furnishing primarily domiciliary care is not within
859 this definition.

860 (xi) "Pediatric skilled nursing facility" means an
861 institution or a distinct part of an institution that is primarily
862 engaged in providing to inpatients skilled nursing care and
863 related services for persons under twenty-one (21) years of age
864 who require medical or nursing care or rehabilitation services for
865 the rehabilitation of injured, disabled or sick persons.

866 (xii) "Long-term care hospital" means a
867 freestanding, Medicare-certified hospital that has an average
868 length of inpatient stay greater than twenty-five (25) days, which
869 is primarily engaged in providing chronic or long-term medical
870 care to patients who do not require more than three (3) hours of
871 rehabilitation or comprehensive rehabilitation per day, and has a
872 transfer agreement with an acute care medical center and a
873 comprehensive medical rehabilitation facility. Long-term care
874 hospitals shall not use rehabilitation, comprehensive medical
875 rehabilitation, medical rehabilitation, sub-acute rehabilitation,
876 nursing home, skilled nursing facility or sub-acute care facility
877 in association with its name.



878 (xiii) "Comprehensive medical rehabilitation
879 facility" means a hospital or hospital unit that is licensed
880 and/or certified as a comprehensive medical rehabilitation
881 facility which provides specialized programs that are accredited
882 by the Commission on Accreditation of Rehabilitation Facilities
883 and supervised by a physician board certified or board eligible in
884 physiatry or other doctor of medicine or osteopathy with at least
885 two (2) years of training in the medical direction of a
886 comprehensive rehabilitation program that:

887 1. Includes evaluation and treatment of
888 individuals with physical disabilities;

889 2. Emphasizes education and training of
890 individuals with disabilities;

891 3. Incorporates at least the following core
892 disciplines:

893 * * *a. Physical Therapy;

894 * * *b. Occupational Therapy;

895 * * *c. Speech and Language Therapy;

896 * * *d. Rehabilitation Nursing; and

897 4. Incorporates at least three (3) of the
898 following disciplines:

899 * * *a. Psychology;

900 * * *b. Audiology;

901 * * *c. Respiratory Therapy;

902 * * *d. Therapeutic Recreation;



- 903 * * *e. Orthotics;
- 904 * * *f. Prosthetics;
- 905 * * *g. Special Education;
- 906 * * *h. Vocational Rehabilitation;
- 907 * * *i. Psychotherapy;
- 908 * * *j. Social Work;
- 909 * * *k. Rehabilitation Engineering.

910 These specialized programs include, but are not limited to:
911 spinal cord injury programs, head injury programs and infant and
912 early childhood development programs.

913 (i) "Health maintenance organization" or "HMO" means a
914 public or private organization organized under the laws of this
915 state or the federal government which:

916 (i) Provides or otherwise makes available to
917 enrolled participants health care services, including
918 substantially the following basic health care services: usual
919 physician services, hospitalization, laboratory, x-ray, emergency
920 and preventive services, and out-of-area coverage;

921 (ii) Is compensated (except for copayments) for
922 the provision of the basic health care services listed in
923 subparagraph (i) of this paragraph to enrolled participants on a
924 predetermined basis; and

925 (iii) Provides physician services primarily:

926 1. Directly through physicians who are either
927 employees or partners of such organization; or



928 2. Through arrangements with individual
929 physicians or one or more groups of physicians (organized on a
930 group practice or individual practice basis).

931 (j) "Health service area" means a geographic area of
932 the state designated in the State Health Plan as the area to be
933 used in planning for specified health facilities and services and
934 to be used when considering certificate of need applications to
935 provide health facilities and services.

936 (k) "Health services" means clinically related (i.e.,
937 diagnostic, treatment or rehabilitative) services and includes
938 alcohol, drug abuse, mental health and home health care services.
939 "Clinical health services" shall only include those activities
940 which contemplate any change in the existing bed complement of any
941 health care facility through the addition or conversion of any
942 beds, under Section 41-7-191(1)(c) or propose to offer any health
943 services if those services have not been provided on a regular
944 basis by the proposed provider of such services within the period
945 of twelve (12) months prior to the time such services would be
946 offered, under Section 41-7-191(1)(d). "Nonclinical health
947 services" shall be all other services which do not involve any
948 change in the existing bed complement or offering health services
949 as described above.

950 (l) "Institutional health services" shall mean health
951 services provided in or through health care facilities and shall



952 include the entities in or through which such services are
953 provided.

954 (m) "Major medical equipment" means medical equipment
955 designed for providing medical or any health-related service which
956 costs in excess of One Million Five Hundred Thousand Dollars
957 (\$1,500,000.00). However, this definition shall not be applicable
958 to clinical laboratories if they are determined by the State
959 Department of Health to be independent of any physician's office,
960 hospital or other health care facility or otherwise not so defined
961 by federal or state law, or rules and regulations promulgated
962 thereunder.

963 (n) "State Department of Health" or "department" shall
964 mean the state agency created under Section 41-3-15, which shall
965 be considered to be the State Health Planning and Development
966 Agency, as defined in paragraph (u) of this section.

967 (o) "Offer," when used in connection with health
968 services, means that it has been determined by the State
969 Department of Health that the health care facility is capable of
970 providing specified health services.

971 (p) "Person" means an individual, a trust or estate,
972 partnership, corporation (including associations, joint-stock
973 companies and insurance companies), the state or a political
974 subdivision or instrumentality of the state.

975 (q) "Provider" shall mean any person who is a provider
976 or representative of a provider of health care services requiring



977 a certificate of need under Section 41-7-171 et seq., or who has
978 any financial or indirect interest in any provider of services.

979 (r) "Radiation therapy services" means the treatment of
980 cancer and other diseases using ionizing radiation of either high
981 energy photons (x-rays or gamma rays) or charged particles
982 (electrons, protons or heavy nuclei). However, for purposes of a
983 certificate of need, radiation therapy services shall not include
984 low energy, superficial, external beam x-ray treatment of
985 superficial skin lesions.

986 (s) "Secretary" means the Secretary of Health and Human
987 Services, and any officer or employee of the Department of Health
988 and Human Services to whom the authority involved has been
989 delegated.

990 (t) "State Health Plan" means the sole and official
991 statewide health plan for Mississippi which identifies priority
992 state health needs and establishes standards and criteria for
993 health-related activities which require certificate of need review
994 in compliance with Section 41-7-191.

995 (u) "State Health Planning and Development Agency"
996 means the agency of state government designated to perform health
997 planning and resource development programs for the State of
998 Mississippi.

999 **SECTION 22.** Section 41-13-11, Mississippi Code of 1972, is
1000 amended as follows:



1001 41-13-11. (1) * * * The board of trustees of any community
1002 hospital is * * * authorized, in its discretion, to obtain and pay
1003 for, out of operating funds of the community hospital, liability
1004 insurance of such kinds as * * * the board of trustees deems
1005 advisable covering the operation of * * * the community hospital,
1006 including trustees, employees and volunteers, and every department
1007 thereof, and all machinery, equipment, appliances and motor
1008 vehicles thereof or used in connection therewith so as to cover
1009 damages or injury to persons or property or both caused by the
1010 negligence of any member of * * * the board of trustees or of any
1011 officer, director, agent, servant, attorney, employee or volunteer
1012 of such hospital while engaged in the performance of his duties or
1013 working in connection with the operation of * * * the community
1014 hospital. Such insurance shall either be procured from a company
1015 or companies authorized to do business and doing business in the
1016 State of Mississippi or provided through a program of self
1017 insurance established pursuant to the provisions of Section
1018 11-46-17 * * *. Such insurance shall be for such amounts of
1019 coverage and shall cover such trustees, employees, volunteers,
1020 departments, installations, equipment, facilities and activities
1021 as the board of trustees, in its discretion, shall determine. The
1022 board of trustees may likewise indemnify, either by the purchase
1023 of insurance or, directly, where funds are available, in whole or
1024 in part, any trustee, officer, director, agent, volunteer or
1025 employee of * * * the facility or program for actual personal



1026 expenses incurred in the defense of any suit, or judgments
1027 resulting from * * * the suit, brought against * * * the trustee,
1028 officer, director, agent, volunteer or employee for alleged
1029 negligent or wrongful conduct committed while under the employment
1030 of or while providing service to a community hospital.

1031 (* * *2) Notwithstanding the authority to purchase or
1032 provide liability insurance as provided for in subsection
1033 (* * *1) of this section, any community hospital, owner or board
1034 of trustees shall be subject to and shall be governed by the
1035 provisions of Section 11-46-1 et seq., * * * for any cause of
1036 action which accrues from and after October 1, 1993, on account of
1037 any wrongful or tortious act or omission of any such governmental
1038 entity, as defined in Section 11-46-1, * * * or its employees
1039 relating to or in connection with any activity or operation of any
1040 community hospital.

1041 (3) The board of a regional health authority under Sections
1042 1 through 19 of this act is authorized, in its discretion, to
1043 obtain and pay for, out of operating funds of the authority,
1044 liability insurance as described in this section.

1045 **SECTION 23.** Section 41-13-15, Mississippi Code of 1972, is
1046 amended as follows:

1047 41-13-15. (1) Any county and/or any political or judicial
1048 subdivision of a county and/or any municipality of the State of
1049 Mississippi, acting individually or jointly, may acquire and hold
1050 real estate for a community hospital either recognized and/or



1051 licensed as such by either the State of Mississippi or the United
1052 States Government, and may, after complying with applicable health
1053 planning and licensure statutes, construct a community hospital
1054 thereon and/or appropriate funds according to the provisions of
1055 this chapter for the construction, remodeling, maintaining,
1056 equipping, furnishing and expansion of such facilities by the
1057 board of trustees upon such real estate.

1058 (2) Where joint ownership of a community hospital is
1059 involved, the owners are * * * authorized to contract with each
1060 other for determining the pro rata ownership of such community
1061 hospital, the proportionate cost of maintenance and operation, and
1062 the proportionate financing that each will contribute to the
1063 community hospital.

1064 (3) The owners may likewise contract with each other, or on
1065 behalf of any subordinate political or judicial subdivision, or
1066 with the board of trustees of a community hospital, and/or any
1067 agency of the State of Mississippi or the United States
1068 Government, for necessary purposes related to the establishment,
1069 operation or maintenance of community hospitals and related
1070 programs wherever located, and may either accept from, sell or
1071 contribute to the other entities, monies, personal property or
1072 existing health facilities. The owners or the board of trustees
1073 may also receive monies, property or any other valuables of any
1074 kind through gifts, donations, devises or other recognized means
1075 from any source for the purpose of hospital use.



1076 (4) Owners and boards of trustees, acting jointly or
1077 severally, may acquire and hold real estate for offices for
1078 physicians and other health care practitioners and related health
1079 care or support facilities, provided that any contract for the
1080 purchase of real property must be ratified by the owner, and may
1081 thereon construct and equip, maintain and remodel or expand such
1082 offices and related facilities, and the board of trustees may
1083 lease same to members of the hospital staff or others at a rate
1084 deemed to be in the best interest of the community hospital.

1085 (5) If any political or judicial subdivision of a county is
1086 obligated hereunder, the boundaries of such district shall not be
1087 altered in such a manner as to relieve any portion thereof of its
1088 obligation hereunder.

1089 (6) Owners may convey to any other owner any or all
1090 property, real or personal, comprising any existing community
1091 hospital, including related facilities, wherever located, owned by
1092 such conveying owner. Such conveyance shall be upon such terms
1093 and conditions as may be agreed upon and may make such provisions
1094 for transfers of operating funds and/or for the assumption of
1095 liabilities of the community hospital as may be deemed appropriate
1096 by the respective owners.

1097 (7) (a) Except as provided for in subsection (11) of this
1098 section, owners may lease all or part of the property, real or
1099 personal, comprising a community hospital, including any related
1100 facilities, wherever located, and/or assets of such community



1101 hospital, to any individual, partnership or corporation, whether
1102 operating on a nonprofit basis or on a profit basis, or to the
1103 board of trustees of such community hospital or any other owner or
1104 board of trustees, subject to the applicable provisions of
1105 subsections (8), (9) and (10) of this section. The term of such
1106 lease shall not exceed fifty (50) years. Such lease shall be
1107 conditioned upon (i) the leased facility continuing to operate in
1108 a manner safeguarding community health interests; (ii) the
1109 proceeds from the lease being first applied against such bonds,
1110 notes or other evidence of indebtedness as are issued pursuant to
1111 Section 41-13-19 as and when they are due, provided that the terms
1112 of the lease shall cover any indebtedness pursuant to Section
1113 41-13-19; and (iii) any surplus proceeds from the lease being
1114 deposited in the general fund of the owner, which proceeds may be
1115 used for any lawful purpose. Such lease shall be subject to the
1116 express approval of the board of trustees of the community
1117 hospital, except in the case where the board of trustees of the
1118 community hospital will be the lessee. However, owners may not
1119 lease any community hospital to the University of Mississippi
1120 Medical Center unless first the University of Mississippi Medical
1121 Center has obtained authority to lease such hospital under
1122 specific terms and conditions from the Board of Trustees of State
1123 Institutions of Higher Learning.

1124 If the owner wishes to lease a community hospital without an
1125 option to sell it and the approval of the board of trustees of the



1126 community hospital is required but is not given within thirty (30)
1127 days of the request for its approval by the owner, then the owner
1128 may enter such lease as described herein on the following
1129 conditions: A resolution by the owner describing its intention to
1130 enter such lease shall be published once a week for at least three
1131 (3) consecutive weeks in at least one (1) newspaper published in
1132 the county or city, as the case may be, or if none be so
1133 published, in a newspaper having a general circulation therein.
1134 The first publication of such notice shall be made not less than
1135 twenty-one (21) days prior to the date fixed in such resolution
1136 for the lease of the community hospital and the last publication
1137 shall be made not more than seven (7) days prior to such date.
1138 If, on or prior to the date fixed in such resolution for the lease
1139 of the community hospital, there shall be filed with the clerk of
1140 the owner a petition signed by twenty percent (20%) or fifteen
1141 hundred (1500), whichever is less, of the qualified voters of such
1142 owner, requesting that an election be called and held on the
1143 question of the lease of the community hospital, then it shall be
1144 the duty of the owner to call and provide for the holding of an
1145 election as petitioned for. In such case, no such lease shall be
1146 entered into unless authorized by the affirmative vote of the
1147 majority of the qualified voters of such owner who vote on the
1148 proposition at such election. Notice of such election shall be
1149 given by publication in like manner as hereinabove provided for
1150 the publication of the initial resolution. Such election shall be



1151 conducted and the return thereof made, canvassed and declared as
1152 nearly as may be in like manner as is now or may hereafter be
1153 provided by law in the case of general elections in such owner.
1154 If, on or prior to the date fixed in the owner's resolution for
1155 the lease of the community hospital, no such petition as described
1156 above is filed with the clerk of the owner, then the owner may
1157 proceed with the lease subject to the other requirements of this
1158 section. Subject to the above conditions, the lease agreement
1159 shall be upon such terms and conditions as may be agreed upon and
1160 may make such provision for transfers of tangible and intangible
1161 personal property and operating funds and/or for the assumption of
1162 liabilities of the community hospital and for such lease payments,
1163 all as may be deemed appropriate by the owners.

1164 (b) Owners may sell and convey all or part of the
1165 property, real or personal, comprising a community hospital,
1166 including any related facilities, wherever located, and/or assets
1167 of such community hospital, to any individual, partnership or
1168 corporation, whether operating on a nonprofit basis or on a profit
1169 basis, or to the board of trustees of such community hospital or
1170 any other owner or board of trustees, subject to the applicable
1171 provisions of subsections (8) and (10) of this section. Such sale
1172 and conveyance shall be upon such terms and conditions as may be
1173 agreed upon by the owner and the purchaser that are consistent
1174 with the requirements of this section, and the parties may make
1175 such provisions for the transfer of operating funds or for the



1176 assumption of liabilities of the facility, or both, as they deem
1177 appropriate. However, such sale and conveyance shall be
1178 conditioned upon (i) the facility continuing to operate in a
1179 manner safeguarding community health interests; (ii) the proceeds
1180 from such sale being first applied against such bonds, notes or
1181 other evidence of indebtedness as are issued pursuant to Section
1182 41-13-19 as and when they are due, provided that the terms of the
1183 sale shall cover any indebtedness pursuant to Section 41-13-19;
1184 and (iii) any surplus proceeds from the sale being deposited in
1185 the general fund of the owner, which proceeds may be used for any
1186 lawful purpose. However, owners may not sell or convey any
1187 community hospital to the University of Mississippi Medical Center
1188 unless first the University of Mississippi Medical Center has
1189 obtained authority to purchase such hospital under specific terms
1190 and conditions from the Board of Trustees of State Institutions of
1191 Higher Learning.

1192 (8) Whenever any owner decides that it may be in its best
1193 interests to sell or lease a community hospital as provided for
1194 under subsection (7) of this section, the owner shall first
1195 contract with a certified public accounting firm, a law firm or
1196 competent professional health care or management consultants to
1197 review the current operating condition of the community hospital.
1198 The review shall consist of, at minimum, the following:



1199 (a) A review of the community's inpatient facility
1200 needs based on current workload, historical trends and
1201 projections, based on demographic data, of future needs.

1202 (b) A review of the competitive market for services,
1203 including other hospitals which serve the same area, the services
1204 provided and the market perception of the competitive hospitals.

1205 (c) A review of the hospital's strengths relative to
1206 the competition and its capacity to compete in light of projected
1207 trends and competition.

1208 (d) An analysis of the hospital's options, including
1209 service mix and pricing strategies. If the study concludes that a
1210 sale or lease should occur, the study shall include an analysis of
1211 which option would be best for the community and how much revenues
1212 should be derived from the lease or sale.

1213 (9) After the review and analysis under subsection (8) of
1214 this section, an owner may choose to sell or lease the community
1215 hospital. If an owner chooses to sell such hospital or lease the
1216 hospital with an option to sell it, the owner shall follow the
1217 procedure specified in subsection (10) of this section. If an
1218 owner chooses to lease the hospital without an option to sell it,
1219 it shall first spread upon its minutes why such a lease is in the
1220 best interests of the persons living in the area served by the
1221 facility to be leased, and it shall make public any and all
1222 findings and recommendations made in the review required under
1223 proposals for the lease, which shall state clearly the minimum



1224 required terms of all respondents and the evaluation process that
1225 will be used when the owner reviews the proposals. The owner
1226 shall lease to the respondent submitting the highest and best
1227 proposal. In no case may the owner deviate from the process
1228 provided for in the request for proposals.

1229 (10) If an owner wishes to sell such community hospital or
1230 lease the hospital with an option to sell it, the owner first
1231 shall conduct a public hearing on the issue of the proposed sale
1232 or lease with an option to sell the hospital. Notice of the date,
1233 time, location and purpose of the public hearing shall be
1234 published once a week for at least three (3) consecutive weeks in
1235 at least one (1) newspaper published in the county or city, as the
1236 case may be, or if none be so published, in a newspaper having a
1237 general circulation therein. The first publication of the notice
1238 shall be made not less than twenty-one (21) days before the date
1239 of the public hearing and the last publication shall be made not
1240 more than seven (7) days before that date. If there is filed with
1241 the clerk of the owner not more than twenty-one (21) days after
1242 the date of the public hearing, a petition signed by twenty
1243 percent (20%) or fifteen hundred (1500), whichever is less, of the
1244 qualified voters of the owner, requesting that an election be
1245 called and held on the question of whether the owner should
1246 proceed with the process of seeking proposals for the sale or
1247 lease with an option to sell the hospital, then it shall be the
1248 duty of the owner to call and provide for the holding of an



1249 election as petitioned for. Notice of the election shall be given
1250 by publication in the same manner as provided for the publication
1251 of the notice of the public hearing. The election shall be
1252 conducted and the return thereof made, canvassed and declared in
1253 the same manner as provided by law in the case of general
1254 elections in the owner. If less than a majority of the qualified
1255 voters of the owner who vote on the proposition at such election
1256 vote in favor of the owner proceeding with the process of seeking
1257 proposals for the sale or lease with an option to sell the
1258 hospital, then the owner is not authorized to sell or lease the
1259 hospital. If a majority of the qualified voters of the owner who
1260 vote on the proposition at such election vote in favor of the
1261 owner proceeding with the process of seeking proposals for the
1262 sale or lease with an option to sell the hospital, then the owner
1263 may seek proposals for the sale or lease of the hospital. If no
1264 such petition is timely filed with the clerk of the owner, then
1265 the owner may proceed with the process of seeking proposals for
1266 the sale or lease with an option to sell the hospital. The owner
1267 shall adopt a resolution describing its intention to sell or lease
1268 with an option to sell the hospital, which shall include the
1269 owner's reasons why such a sale or lease is in the best interests
1270 of the persons living in the area served by the facility to be
1271 sold or leased. The owner then shall publish a copy of the
1272 resolution; the requirements for proposals for the sale or lease
1273 with an option to sell the hospital, which shall state clearly the



1274 minimum required terms of all respondents and the evaluation
1275 process that will be used when the owner reviews the proposals;
1276 and the date proposed by the owner for the sale or lease with an
1277 option to sell the hospital. Such publication shall be made once
1278 a week for at least three (3) consecutive weeks in at least one
1279 (1) newspaper published in the county or city, as the case may be,
1280 or if none be so published, in a newspaper having a general
1281 circulation therein. The first publication of the notice shall be
1282 made not less than twenty-one (21) days before the date proposed
1283 for the sale or lease with an option to sell the hospital and the
1284 last publication shall be made not more than seven (7) days before
1285 that date. After receiving proposals, such sale or lease shall be
1286 made to the respondent submitting the highest and best proposal.
1287 In no case may the owner deviate from the process provided for in
1288 the request for proposals.

1289 (11) A lessee of a community hospital, under a lease entered
1290 into under the authority of Section 41-13-15, in effect prior to
1291 July 15, 1993, or an affiliate thereof, may extend or renew such
1292 lease whether or not an option to renew or extend the lease is
1293 contained in the lease, for a term not to exceed fifteen (15)
1294 years, conditioned upon (a) the leased facility continuing to
1295 operate in a manner safeguarding community health interest; (b)
1296 proceeds from the lease being first applied against such bonds,
1297 notes or other evidence of indebtedness as are issued pursuant to
1298 Section 41-13-19; (c) surplus proceeds from the lease being used



1299 for health related purposes; (d) subject to the express approval
1300 of the board of trustees of the community hospital; and (e)
1301 subject to the express approval of the owner. If no board of
1302 trustees is then existing, the owner shall have the right to enter
1303 into a lease upon such terms and conditions as agreed upon by the
1304 parties. Any lease entered into under this subsection (11) may
1305 contain an option to purchase the hospital, on such terms as the
1306 parties shall agree.

1307 (12) All community hospitals that become participants in a
1308 regional health authority under Sections 1 through 19 of this act
1309 shall be governed by Sections 1 through 19 of this act, and shall
1310 no longer be governed by or subject to Sections 41-13-10 through
1311 41-13-53 or Sections 41-13-101 through 41-13-107, except as
1312 amended by or otherwise provided in Sections 1 through 19 of this
1313 act.

1314 (13) The board of a regional health authority under Sections
1315 1 through 19 of this act shall have and assume the powers,
1316 authority, rights, privileges and immunities conferred on the
1317 owners of community hospitals, respectively, as set forth in
1318 Sections 41-13-10 through 41-13-53 and Sections 41-13-101 through
1319 41-13-107, except as amended by or otherwise provided in Sections
1320 1 through 19 of this act.

1321 (14) A regional health authority under Sections 1 through 19
1322 of this act shall not be subject to the provisions of subsections
1323 (7) though (11) of this section.



1324 **SECTION 24.** Section 41-13-19, Mississippi Code of 1972, is
1325 amended as follows:

1326 41-13-19. Such counties, cities and towns, supervisors
1327 districts, judicial districts and election districts of a county
1328 are authorized and empowered to make appropriations of the funds
1329 thereof for the purpose of Sections 41-13-15 through 41-13-51, and
1330 are * * * authorized and empowered to issue and sell the bonds,
1331 notes or other evidences of indebtedness thereof, for the purpose
1332 of providing funds with which to acquire real estate for and to
1333 establish, erect, build, construct, remodel, add to, acquire,
1334 equip and furnish community hospitals, nurses' homes, health
1335 centers, health departments, diagnostic or treatment centers,
1336 rehabilitation facilities, nursing homes and related facilities
1337 under the provisions of such sections. Such bonds, notes or other
1338 evidences of indebtedness secured by a pledge of the full faith,
1339 credit, and resources of the issuing entity shall not be issued in
1340 an amount which will exceed the limit of indebtedness of the
1341 county, city, town, supervisors district, judicial district or
1342 election district issuing the same, as such limit is prescribed by
1343 Sections 19-9-1 et seq., and Sections 21-33-301 et seq. * * *

1344 Before issuing any such bonds, notes or other evidences of
1345 indebtedness secured by a pledge of the full faith, credit, and
1346 resources of the issuing entity, the board of supervisors, acting
1347 for a county or supervisors district, judicial district or
1348 election district thereof, or the mayor and board of aldermen, or



1349 city council, or other like governing body, acting for a city or
1350 town, shall adopt a resolution declaring its intention to issue
1351 the same, stating the amount and purposes thereof, whether such
1352 hospital, nurses' home, health center, health department,
1353 diagnostic or treatment center, rehabilitation facility, nursing
1354 home or related facilities are to be erected, acquired, remodeled,
1355 equipped, furnished, maintained and operated by such county, city,
1356 town or supervisors district separately, or jointly with one or
1357 more other counties, cities, towns, supervisors districts,
1358 judicial districts or election districts of a county, and fixing
1359 the date upon which further action will be taken to provide for
1360 the issuance of such bonds, notes or other evidences of
1361 indebtedness. The full text of such resolution shall be published
1362 once a week for at least three (3) consecutive weeks in at least
1363 one (1) newspaper published in the county or city, as the case may
1364 be, or if none be so published, in a newspaper having a general
1365 circulation therein. The first publication of such notice shall
1366 be made not less than twenty-one (21) days prior to the date fixed
1367 in such resolution, as aforesaid, and the last publication shall
1368 be made not more than seven (7) days prior to such date. If, on
1369 or prior to the date fixed in such resolution, as aforesaid, there
1370 shall be filed with the clerk of the body by which such resolution
1371 was adopted a petition signed by twenty percent (20%) or fifteen
1372 hundred (1500), whichever is less, of the qualified voters of such
1373 county, city, town, supervisors district, judicial district or



1374 election district, as the case may be, requesting that an election
1375 be called and held on the question of the issuance of such bonds,
1376 notes or other evidences of indebtedness, then it shall be the
1377 duty of the board of supervisors, board of aldermen, city council,
1378 or other governing body, as the case may be, to call and provide
1379 for the holding of an election as petitioned for. In such case no
1380 such bonds, notes or other evidences of indebtedness secured by a
1381 pledge of the full faith, credit, and resources of the issuing
1382 entity shall be issued unless authorized by the affirmative vote
1383 of a majority of the qualified voters of such county, city, town,
1384 supervisors district, judicial district or election district, as
1385 the case may be, who vote on the proposition at such election.
1386 Notice of such election shall be given by publication in like
1387 manner as hereinabove provided for the publication of the initial
1388 resolution. Such election shall be conducted and the return
1389 thereof made, canvassed and declared as nearly as may be in like
1390 manner as is now or may hereafter be provided by law in the case
1391 of general elections in such county, city, town, supervisors
1392 district, judicial district or election district.

1393 In the discretion of the board of supervisors, board of
1394 aldermen, city council, or other governing body, as the case may
1395 be, and after adoption of a resolution declaring its intention to
1396 issue such bonds, notes or other evidences of indebtedness secured
1397 by a pledge of the full faith, credit, and resources of the
1398 issuing entity, an election on the question of the issuance of



1399 such bonds, notes or other evidences of indebtedness may be called
1400 and held as hereinabove provided without the necessity of
1401 publishing * * * the resolution and whether or not a protest to
1402 the issuance be filed with the clerk of the governing body. In
1403 the event that the question of the issuance of such bonds, notes
1404 or other evidences of indebtedness secured by a pledge of the full
1405 faith, credit, and resources of the issuing entity be not
1406 authorized at such election, such question shall not again be
1407 submitted to a vote until the expiration of a period of six (6)
1408 months from and after the date of such election.

1409 In the event of any joint operation or proposed joint
1410 operation as provided by Section 41-13-15, there shall be separate
1411 bond issues, and the board or boards of supervisors acting for a
1412 county, supervisors district, judicial district or election
1413 district, the governing bodies of the municipality or
1414 municipalities, as the case may be, shall each issue the bonds,
1415 notes, or other evidences of indebtedness of the county, town,
1416 city, supervisors district, judicial district or election
1417 district, or districts, in such amounts as having been agreed upon
1418 by the respective boards of supervisors and governing bodies of
1419 the towns or cities, and in so doing follow and comply with the
1420 provisions of Sections 41-13-19 through 41-13-23.

1421 The board of a regional health authority under Sections 1
1422 through 19 of this act is authorized and empowered to make
1423 appropriations of funds and to issue and sell bonds, notes or



1424 other evidences of indebtedness thereof, for the benefit of the
1425 authority, in the same manner as, and subject to all duties,
1426 obligations and provisions set forth in Sections 41-13-19 through
1427 41-13-25.

1428 **SECTION 25.** Section 41-13-35, Mississippi Code of 1972, is
1429 amended as follows:

1430 41-13-35. (1) The board of trustees of any community
1431 hospital shall have full authority to appoint an administrator,
1432 who shall not be a member of the board of trustees, and to
1433 delegate reasonable authority to such administrator for the
1434 operation and maintenance of such hospital and all property and
1435 facilities otherwise appertaining thereto.

1436 (2) The board of trustees shall have full authority to
1437 select from its members, officers and committees and, by
1438 resolution or through the board bylaws, to delegate to such
1439 officers and committees reasonable authority to carry out and
1440 enforce the powers and duties of the board of trustees during the
1441 interim periods between regular meetings of the board of trustees;
1442 provided, however, that any such action taken by an officer or
1443 committee shall be subject to review by the board, and actions may
1444 be withdrawn or nullified at the next subsequent meeting of the
1445 board of trustees if the action is in excess of delegated
1446 authority.

1447 (3) The board of trustees shall be responsible for governing
1448 the community hospital under its control and shall make and



1449 enforce staff and hospital bylaws and/or rules and regulations
1450 necessary for the administration, government, maintenance and/or
1451 expansion of such hospitals. The board of trustees shall keep
1452 minutes of its official business and shall comply with Section
1453 41-9-68.

1454 (4) The decisions of the board of trustees of the community
1455 hospital shall be valid and binding unless expressly prohibited by
1456 applicable statutory or constitutional provisions.

1457 (5) The powers and duties of the board of trustees shall
1458 specifically include, but not be limited to, the following:

1459 (a) To deposit and invest funds of the community
1460 hospital in accordance with Section 27-105-365;

1461 (b) To establish such equitable wage and salary
1462 programs and other employment benefits as may be deemed expedient
1463 or proper, and in so doing, to expend reasonable funds for such
1464 employee salary and benefits. Allowable employee programs shall
1465 specifically include, but not be limited to, medical benefit,
1466 life, accidental death and dismemberment, disability, retirement
1467 and other employee coverage plans. The hospital may offer and
1468 fund such programs directly or by contract with any third party
1469 and shall be authorized to take all actions necessary to
1470 implement, administer and operate such plans, including payroll
1471 deductions for such plans;



1472 (c) To authorize employees to attend and to pay actual
1473 expenses incurred by employees while engaged in hospital business
1474 or in attending recognized educational or professional meetings;

1475 (d) To enter into loan or scholarship agreements with
1476 employees or students to provide educational assistance where such
1477 student or employee agrees to work for a stipulated period of time
1478 for the hospital;

1479 (e) To devise and implement employee incentive
1480 programs;

1481 (f) To recruit and financially assist physicians and
1482 other health care practitioners in establishing, or relocating
1483 practices within the service area of the community hospital
1484 including, without limitation, direct and indirect financial
1485 assistance, loan agreements, agreements guaranteeing minimum
1486 incomes for a stipulated period from opening of the practice and
1487 providing free office space or reduced rental rates for office
1488 space where such recruitment would directly benefit the community
1489 hospital and/or the health and welfare of the citizens of the
1490 service area;

1491 (g) To contract by way of lease, lease-purchase or
1492 otherwise, with any agency, department or other office of
1493 government or any individual, partnership, corporation, owner,
1494 other board of trustees, or other health care facility, for the
1495 providing of property, equipment or services by or to the
1496 community hospital or other entity or regarding any facet of the



1497 construction, management, funding or operation of the community
1498 hospital or any division or department thereof, or any related
1499 activity, including, without limitation, shared management
1500 expertise or employee insurance and retirement programs, and to
1501 terminate those contracts when deemed in the best interests of the
1502 community hospital;

1503 (h) To file suit on behalf of the community hospital to
1504 enforce any right or claims accruing to the hospital and to defend
1505 and/or settle claims against the community hospital and/or its
1506 board of trustees;

1507 (i) To sell or otherwise dispose of any chattel
1508 property of the community hospital by any method deemed
1509 appropriate by the board where such disposition is consistent with
1510 the hospital purposes or where such property is deemed by the
1511 board to be surplus or otherwise unneeded;

1512 (j) To let contracts for the construction, remodeling,
1513 expansion or acquisition, by lease or purchase, of hospital or
1514 health care facilities, including real property, within the
1515 service area for community hospital purposes where such may be
1516 done with operational funds without encumbrancing the general
1517 funds of the county or municipality, provided that any contract
1518 for the purchase or lease of real property must have the prior
1519 approval of the owner;

1520 (k) To borrow money and enter other financing
1521 arrangements for community hospital and related purposes and to



1522 grant security interests in hospital equipment and other hospital
1523 assets and to pledge a percentage of hospital revenues as security
1524 for such financings where needed; provided that the owner shall
1525 specify by resolution the maximum borrowing authority and maximum
1526 percent of revenue that may be pledged by the board of trustees
1527 during any given fiscal year;

1528 (1) To expend hospital funds for public relations or
1529 advertising programs;

1530 (m) To offer the following inpatient and outpatient
1531 services, after complying with applicable health planning,
1532 licensure statutes and regulations, whether or not heretofore
1533 offered by such hospital or other similar hospitals in this state
1534 and whether or not heretofore authorized to be offered, long-term
1535 care, extended care, home care, after-hours clinic services,
1536 ambulatory surgical clinic services, preventative health care
1537 services including wellness services, health education,
1538 rehabilitation and diagnostic and treatment services; to promote,
1539 develop, operate and maintain a center providing care or
1540 residential facilities for the aged, convalescent or handicapped;
1541 and to promote, develop and institute any other services having an
1542 appropriate place in the operation of a hospital offering complete
1543 community health care;

1544 (n) To promote, develop, acquire, operate and maintain
1545 on a nonprofit basis, or on a profit basis if the community
1546 hospital's share of profits is used solely for community hospital



1547 and related purposes in accordance with this chapter, either
1548 separately or jointly with one or more other hospitals or
1549 health-related organizations, facilities and equipment for
1550 providing goods, services and programs for hospitals, other health
1551 care providers, and other persons or entities in need of such
1552 goods, services and programs and, in doing so, to provide for
1553 contracts of employment or contracts for services and ownership of
1554 property on terms that will protect the public interest;

1555 (o) To establish and operate medical offices, child
1556 care centers, wellness or fitness centers and other facilities and
1557 programs which the board determines are appropriate in the
1558 operation of a community hospital for the benefit of its
1559 employees, personnel and/or medical staff which shall be operated
1560 as an integral part of the hospital and which may, in the
1561 direction of the board of trustees, be offered to the general
1562 public. If such programs are not established in existing
1563 facilities or constructed on real estate previously acquired by
1564 the owners, the board of trustees shall also have authority to
1565 acquire, by lease or purchase, such facilities and real property
1566 within the service area, whether or not adjacent to existing
1567 facilities, provided that any contract for the purchase of real
1568 property shall be ratified by the owner. The trustees shall lease
1569 any such medical offices to members of the medical staff at rates
1570 deemed appropriate and may, in its discretion, establish rates to
1571 be paid for the use of other facilities or programs by its



1572 employees or personnel or members of the public whom the trustees
1573 may determine may properly use such other facilities or programs;

1574 (p) Provide, at its discretion, ambulance service
1575 and/or to contract with any third party, public or private,
1576 for * * * providing * * * such service;

1577 (q) Establish a fair and equitable system for the
1578 billing of patients for care or users of services received through
1579 the community hospital, which in the exercise of the board of
1580 trustees' prudent fiscal discretion, may allow for rates to be
1581 classified according to the potential usage by an identified group
1582 or groups of patients of the community hospital's services and may
1583 allow for standard discounts where the discount is designed to
1584 reduce the operating costs or increase the revenues of the
1585 community hospital. Such billing system may also allow for the
1586 payment of charges by means of a credit card or similar device and
1587 allow for payment of administrative fees as may be regularly
1588 imposed by a banking institution or other credit service
1589 organization for the use of such cards;

1590 (r) To establish as an organizational part of the
1591 hospital or to aid in establishing as a separate entity from the
1592 hospital, hospital auxiliaries designed to aid the hospital, its
1593 patients, and/or families and visitors of patients, and when the
1594 auxiliary is established as a separate entity from the hospital,
1595 the board of trustees may cooperate with the auxiliary in its
1596 operations as the board of trustees deems appropriate;



1597 (s) To make any agreements or contracts with the
1598 federal government or any agency thereof, the State of Mississippi
1599 or any agency thereof, and any county, city, town, supervisors
1600 district or election district within this state, jointly or
1601 separately, for the maintenance of charity facilities;

1602 (t) To acquire hospitals, health care facilities and
1603 other health care-related operations and assets, through direct
1604 purchase, merger, consolidation, lease or other means;

1605 (u) To enter into joint ventures, joint-operating
1606 agreements or similar arrangements with other public or private
1607 health care-related organizations, or with for-profit or nonprofit
1608 corporations, for-profit or nonprofit limited liability companies
1609 or other similar organizations, either directly or through a
1610 nonprofit corporation formed or owned by the community hospital,
1611 for the joint operation of all or part of the community hospital,
1612 or the joint operation of any health care facilities or health
1613 care services, and in doing so, to convey the community hospital's
1614 assets, service lines or facilities to the joint venture or to any
1615 other organization or entity for fair market value, and to provide
1616 for contracts of employment or contracts for services and
1617 ownership of property that will protect the public interest;

1618 (v) To form, establish, fund and operate nonprofit
1619 corporations, nonprofit limited liability companies,
1620 state-sponsored entities or other similar organizations, either
1621 directly or through a nonprofit corporation formed by the



1622 community hospital, which are jointly owned with other public or
1623 private hospitals, for-profit or nonprofit corporations, or other
1624 health care-related organizations, for the purpose of conducting
1625 activities within or outside of the community hospital's service
1626 area for the benefit of the community hospital, including, but not
1627 limited to, joint hospital acquisitions, group purchasing,
1628 clinically integrated networks, payor contracting, and joint
1629 requests for federal and state grants and funding;

1630 (w) To make capital contributions, loans, debt or
1631 equity financing to or for any joint venture or similar
1632 arrangement in which the community hospital, or any nonprofit
1633 corporation formed, leased or owned by the community hospital, has
1634 or acquires an ownership interest, and to guarantee loans and any
1635 other obligations for such purposes;

1636 (x) To establish arrangements for the community
1637 hospital to participate in financial integration and/or clinical
1638 integration or clinically integrated networks with a joint
1639 venture, with other public or private or nonprofit health-related
1640 organizations, or through a joint-operating agreement;

1641 (y) To have an ownership interest in, make capital
1642 contributions to, and assume financial risk under, accountable
1643 care organizations or similar organizations;

1644 (z) To enter into any contract for a term of any
1645 length, regardless of whether the length or term of the contract



1646 exceeds the term of the board of trustees of the community
1647 hospital;

1648 (aa) To elect some, any or all of the members of the
1649 board of directors of any nonprofit corporation of which the
1650 community hospital is a member;

1651 (bb) To create, establish, acquire, operate or support
1652 subsidiaries and affiliates, either for-profit or nonprofit or
1653 other similar entity, to assist the community hospital in
1654 fulfilling its purposes;

1655 (cc) To create, establish or support nonaffiliated
1656 for-profit or nonprofit corporations or other similar lawful
1657 business organizations that operate and have as their purposes the
1658 furtherance of the community hospital's purposes;

1659 (dd) Without limiting the generality of any provisions
1660 of this section, to accomplish and facilitate the creation,
1661 establishment, acquisition, operation or support of any such
1662 subsidiary, affiliate, nonaffiliated corporation or other lawful
1663 business organization, by means of loans of funds, acquisition or
1664 transfer of assets, leases of real or personal property, gifts and
1665 grants of funds or guarantees of indebtedness of such
1666 subsidiaries, affiliates and nonaffiliated corporations;

1667 (ee) To exercise all powers granted under this section
1668 in such a manner as the community hospital, through its board of
1669 trustees, may determine to be consistent with the purposes of this
1670 chapter, including the state action immunity provided by this



1671 section from state and federal antitrust laws to the fullest
1672 extent possible, notwithstanding that as a consequence of such
1673 exercise of such powers it engages in activities that may be
1674 deemed "anticompetitive" or which displace competition within the
1675 meaning or contemplation of the antitrust laws of this state or of
1676 the United States; and

1677 (ff) The board of trustees shall not sell, purchase,
1678 convey, lease, or enter into agreements that have the effect of
1679 selling, purchasing, conveying, or leasing any real property or
1680 enter into management agreements, merger agreements, joint
1681 ventures, joint-operating agreements or similar arrangements that
1682 transfer control of any real property or the operations of a
1683 community hospital described in this subsection without the prior
1684 approval of the owners of the real property.

1685 (6) No board of trustees of any community hospital may
1686 accept any grant of money or other thing of value from any
1687 not-for-profit or for-profit organization established for the
1688 purpose of supporting health care in the area served by the
1689 facility unless two-thirds (2/3) of the trustees vote to accept
1690 the grant.

1691 (7) No board of trustees, individual trustee or any other
1692 person who is an agent or servant of the trustees of any community
1693 hospital shall have any personal financial interest in any
1694 not-for-profit or for-profit organization which, regardless of its
1695 stated purpose of incorporation, provides assistance in the form



1696 of grants of money or property to community hospitals or provides
1697 services to community hospitals in the form of performance of
1698 functions normally associated with the operations of a hospital.

1699 (8) The Legislature finds and declares as follows:

1700 (a) The needs of the residents of Mississippi can best
1701 be served by community hospitals having the legal, financial and
1702 operational flexibility to take full advantage of opportunities
1703 and challenges presented by the evolving health care environment
1704 and to take whatever actions are necessary to enable the community
1705 hospitals' continuation as health care systems that provide the
1706 finest possible quality of care consistent with reasonable costs.

1707 (b) In this environment, the community hospitals must
1708 have the ability to respond to changing conditions by having the
1709 power to develop efficient and cost-effective methods and
1710 structures to provide for health care needs, while maintaining a
1711 public mission and character. In addition, community hospitals in
1712 Mississippi are political subdivisions of the state. Accordingly,
1713 the Legislature finds that there is a compelling interest in
1714 establishing a structure and process for a community hospital to
1715 adapt to this dynamic environment, to operate efficiently, to
1716 offer competitive health care services, to respond more
1717 effectively to new developments and regulatory changes in the
1718 health care area, and to continue to serve and promote the health,
1719 wellness and welfare of the citizens of Mississippi. The
1720 acquisition, operation and financing of hospitals and other health



1721 care facilities by the community hospitals are declared to be for
1722 a public and governmental purpose and a matter of public
1723 necessity.

1724 (c) The geographic areas served by community hospitals
1725 include rural populations and other groups that experience
1726 significant health disparities. Health disparities are
1727 differences in health status when compared to the population
1728 overall, often characterized by indicators such as higher
1729 incidence of disease and/or disability, increased mortality rates,
1730 and lower life expectancies. Rural risk factors for health
1731 disparities include geographic isolation, lower socioeconomic
1732 status, higher rates of health risk behaviors and limited access
1733 to health care specialists and subspecialists. As a result of
1734 these health disparities, the residents of areas served by
1735 community hospitals have high rates of mortality and morbidity,
1736 heart disease, cancer, diabetes and other illnesses. The areas
1737 also include a high percentage of uninsured individuals and
1738 Medicaid patients, which are medically underserved groups.
1739 Community hospitals have demonstrated their ability to provide
1740 high-quality health care and to improve health conditions and
1741 outcomes as well as access to care. This section will
1742 significantly strengthen the ability of community hospitals to
1743 serve the health care needs of the residents of their service
1744 areas.



1745 (d) The community hospitals' investment of significant
1746 public assets and their efforts to provide high quality health
1747 care services to medically underserved populations are jeopardized
1748 by potential limits on the ability of community hospitals to
1749 collaborate and consolidate with other public, private, for-profit
1750 and nonprofit health care facilities and providers. The
1751 Legislature expressly finds that the benefits of collaboration and
1752 consolidation by the community hospitals outweigh any adverse
1753 impact on competition. The benefits of the community hospitals'
1754 efforts to collaborate and consolidate include, but are not
1755 limited to, preserving and expanding needed health care services
1756 in its service area; consolidating unneeded or duplicative health
1757 care services; enhancing the quality of, and expanding access to,
1758 health care delivered to medically underserved and rural
1759 populations; and lowering costs and improving the efficiency of
1760 the health care services it delivers. Based on the findings
1761 contained in this section, the Legislature affirmatively expresses
1762 a policy to allow community hospitals to consolidate with other
1763 public, private, for-profit or nonprofit hospitals, health care
1764 facilities and providers and to engage in collaborative activities
1765 consistent with their health care purposes, notwithstanding that
1766 those consolidations and collaborations may have the effect of
1767 displacing competition in the provision of hospital or other
1768 health care-related services. In engaging in such consolidations
1769 and collaborations with other public, private, for-profit or



1770 nonprofit hospitals, health care facilities and providers, the
1771 community hospital shall be considered to be acting pursuant to
1772 clearly articulated state policy as established in this section
1773 and shall not be subject to federal or state antitrust laws while
1774 so acting. With respect to the consolidations, collaborative
1775 activities and other activities contemplated in this section, the
1776 community hospital and the public, private, for-profit or
1777 nonprofit entities with which it consolidates, collaborates, or
1778 enters into any of the transactions set forth in this section,
1779 shall be immune from liability under the federal and state
1780 antitrust laws and those activities are provided with state action
1781 immunity from federal and state antitrust laws to the fullest
1782 extent possible.

1783 (9) The board of a regional health authority under Sections
1784 1 through 19 of this act shall have and assume the powers,
1785 authority, rights, privileges and immunities conferred on the
1786 boards of trustees of community hospitals, respectively, as set
1787 forth in Sections 41-13-10 through 41-13-53 and Sections 41-13-101
1788 through 41-13-107, except as amended by or otherwise provided in
1789 Sections 1 through 19 of this act.

1790 **SECTION 26.** Section 41-13-47, Mississippi Code of 1972, is
1791 amended as follows:

1792 41-13-47. (1) On or before the first Monday in September of
1793 each year, the * * * board of trustees shall make, enter on its
1794 minutes and file with the owner or owners, separately or jointly



1795 interested in * * * the hospital, a proposed budget based on
1796 anticipated income and expenditures for the ensuing fiscal year.
1797 Such budget, as submitted or amended, shall be approved by
1798 the * * * owner or owners, as the case may be, which approval
1799 shall be evidenced by a proper order recorded upon the minutes of
1800 each such owner.

1801 (2) On or before the first Monday in March of each
1802 year, * * * the board of trustees shall also make, enter on its
1803 minutes and file with such owner or owners a full fiscal year
1804 report which shall contain a complete and correct accounting of
1805 all funds received and expended for all hospital purposes.

1806 (3) The board of a regional health authority under Sections
1807 1 through 19 of this act shall not be required to (a) submit to
1808 any owner a proposed budget for the ensuing fiscal year; (b)
1809 obtain the approval of any budget by any owner; or (c) file with
1810 any owner a full fiscal year report.

1811 **SECTION 27.** Section 41-13-101, Mississippi Code of 1972, is
1812 amended as follows:

1813 41-13-101. (1) There is * * * authorized the establishment,
1814 maintenance, administration and operation of any trust established
1815 by agreement of any hospitals or other health-care units licensed
1816 as such by the State of Mississippi, including, without
1817 limitation, community hospitals established under this chapter
1818 (hereinafter referred to as "hospitals") as grantors, with such
1819 hospitals as beneficiaries, for the purpose of insuring against



1820 general public liability claims based upon acts or omissions of
1821 such hospitals, including, without limitation, claims based upon
1822 malpractice. Such hospitals may, by trust agreement among
1823 themselves and a trustee or trustees of their selection, specify
1824 the terms, conditions and provisions of such a trust.

1825 (2) The board of a regional health authority under Sections
1826 1 through 19 of this act is authorized to establish, maintain,
1827 administer and operate any trust as described in this section and,
1828 in such event, shall be subject to the terms, provisions and
1829 requirements of Sections 41-13-101 through 41-13-107.

1830 **SECTION 28.** This act shall take effect and be in force from
1831 and after its passage.

