MISSISSIPPI LEGISLATURE REGULAR SESSION 2024

By: Senator(s) Parker

To: Accountability, Efficiency, Transparency

SENATE BILL NO. 2713

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

41-13-11, 41-13-15, 41-13-19, 41-13-35, 41-13-47 AND 41-13-101, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING PROVISIONS; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

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

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

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

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

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

(i) Maintaining essential health services;

(ii) Retaining an essential workforce;

(iii) Attaining financial sustainability;

(iv) Maximizing public reimbursement opportunities;

(v) Enhancing outpatient health services;

(vi) Achieving economies of scale and skill; and

(vii) Identifying skilled and resourceful affiliation partners.

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

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

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

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

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

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

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

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

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

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

SECTION 4. Establishment of regional health authorities. There is created the Delta Regional Health Authority, which shall be established and operated as a regional health authority as set forth in this act. The Legislature finds and declares that there is a critical and immediate need for the establishment of a regional health authority in the Mississippi Delta in order to address the health care needs of that region. All provisions of

this act that refer or apply to a regional health authority shall apply to the Delta Regional Health Authority. The Governor, after consulting with the State Health Officer, may approve the establishment of additional regional health authorities upon the receipt of duly adopted resolutions from one or more owners of a community hospital that set forth findings that it is in the best interests of the community hospital, and the residents of the area served by the community hospital, to participate in a regional health authority. In evaluating the proposed establishment of a regional health authority, or the proposal of additional community hospitals to participate in a regional health authority, the Governor may consider recommendations of the State Health Officer, geographic proximity, service areas, health services offered or any other relevant factors. The Governor may approve no more than one (1) regional health authority in each congressional district without further legislative approval.

SECTION 5. Authority board. (1) The organizational board of the Delta Regional Health Authority shall consist of three (3) members appointed by the Governor and two (2) members appointed by the Lieutenant Governor, with the advice and consent of the Senate. At least two (2) of the members appointed by the Governor must be adult legal residents of the Mississippi Delta. At least one (1) of the members appointed by the Lieutenant Governor must be adult legal residents of the Mississippi Delta. All appointed members must be adult legal residents of the State of Mississippi

and must have significant, demonstrated experience in business management, fiscal affairs or public health.

(2) The organizational board of other regional health authorities shall also consist of three (3) members appointed by the Governor and two (2) members appointed by the Lieutenant Governor, with the advice and consent of the Senate. At least two (2) of the members appointed by the Governor must be adult legal residents of the Mississippi Delta. At least one (1) of the members appointed by the Lieutenant Governor must be adult legal residents of one (1) of the counties comprising the geographic service area designated by the Governor as being in the authority, and the remaining members shall be at-large adult resident citizens of Mississippi. All appointed members must be adult legal residents of the State of Mississippi and must have significant, demonstrated experience in business management, fiscal affairs or public health.

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

(4) Once the authority has entered into its participation agreement, the authority organizational board shall become an

operational board. The operational board shall consist of the organizational board appointed by the Governor and Lieutenant Governor and no more than six (6) additional members, as provided in the participation agreement. A majority of the members of the operational board of the Delta Regional Health Authority shall be adult legal residents of the Mississippi Delta. The remaining members shall be at-large adult legal residents of Mississippi. A majority of the members of the operational boards of other regional health authorities shall have as a majority adult legal residents of the counties comprising the geographic service area as designated by the Governor as being in the authority, and the remaining members shall be at-large adult legal residents of Mississippi. Future members of the board of the Delta Regional Health Authority and other authority boards shall be appointed as provided in the participation agreements.

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

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

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

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

SECTION 6. Intergovernmental participation agreement. (1) The Delta Regional Health Authority and any future regional health authority may enter into a participation agreement with the owner of one or more community hospitals that will establish the key elements of the relationships among the authority, the owner and the board of trustees of a community hospital, including, but not limited to:

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

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

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

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

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

(f) Covenants for essential health services;

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

(h) Any assumption of existing indebtedness or contracts;

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

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

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

SECTION 7. Participating community hospitals and boards of trustees. All community hospitals that become participants in the regional health authority shall be governed by this act, and shall no longer be governed by or subject to Sections 41-13-10 through

41-13-53 or Sections 41-13-101 through 41-13-107, except as amended by or otherwise provided in this act. Additionally, all community hospitals that become participants in the regional health authority shall be governed by the authority board, and the boards of trustees of the community hospital participants shall have such powers as are expressly delegated to the community hospital board by the authority board. The initial members of the board of trustees of a community hospital participating in the regional health authority shall consist of five (5) members, who shall be designated in the participation agreement between the authority and the owner of the community hospital. Following the appointment of the initial members of the board of trustees, as designated in the participation agreement, all subsequent members of the board of trustees shall be appointed by the authority board.

SECTION 8. Community hospital licenses, permits, regulatory rights and assets. Each community hospital participating in a regional health authority shall retain and maintain its existing licenses, permits, Medicare and Medicaid provider numbers, tax identification numbers and all other regulatory rights and interests. The participation of a community hospital in a regional health authority shall not constitute a "change of ownership" under Section 41-7-171 et seq. (the Mississippi Certificate of Need Law of 1979) or Section 43-13-101 et seq. (the

Mississippi Medicaid Law), or any implementing regulations under those sections.

SECTION 9. Appointment and powers of authority chief executive officer. (1) The authority board may appoint a chief executive officer of the authority, who shall be an employee of the authority and serve at the pleasure of the authority board. The authority board may enter into a contract of employment with a chief executive officer for a term not to exceed five (5) years, but which may be renewed for an additional term or terms of five (5) years each; however, the contract of employment may be terminated by the authority board at any time, with or without cause.

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

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

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

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

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

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

SECTION 10. Certain powers and authority of owners and boards of trustees of community hospitals granted to board of regional health authority. The board of the regional health authority shall have and assume the powers, authority, rights, privileges and immunities conferred on the owners and the boards of trustees of community hospitals, respectively, as set forth in Sections 41-13-10 through 41-13-53 and Sections 41-13-101 through 41-13-107, except as amended by or otherwise provided in this act, and also except as follows:

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

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

(c) The authority board shall not be required to submit to any owner a proposed budget for the ensuing fiscal year, as set

forth in Section 41-13-47, and the authority board shall not be required to obtain the approval of any budget by any owner; and

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

SECTION 11. Additional powers of the authority board. In addition to the powers otherwise granted by this act or any other act or law of this state, or by any state regulation or federal law or regulation, and to the extent at the time not prohibited by the Constitution of Mississippi, in order to achieve the important health care purposes of this act, the authority board shall have, together with all powers incidental thereto or necessary to discharge the powers granted specifically in this act, the following powers and authority:

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

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

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

(d) To sue and be sued in its own name in civil suits and actions, and to defend suits and actions against it, subject,

however, to Sections 11-46-1 through 11-46-23, which are made applicable to the authority;

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

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

(g) To lease or otherwise make available any health care facilities or other of its properties and assets to such persons, firms, partnerships, associations or corporations and on such terms as the authority board deems to be appropriate, to charge and collect rent or other fees or charges therefor and to terminate any such lease or other agreement upon the failure of the lessee or other party thereto to comply with any of its obligations under the lease or agreement;

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

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

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

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

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

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

(n) To contract for the operation of any department, section, equipment or holdings of the authority, and to enter into agreements with any person, firm or corporation for the management by that person, firm or corporation on behalf of the authority of any of its properties or for the more efficient or economical

performance of clerical, accounting, administrative and other functions relating to its health care facilities;

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

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

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

(r) To receive and accept from any source, any type of aid or contributions in the form of money, property, labor or other things of value, to be held, used and applied to carry out the purposes of this act, subject to any lawful condition upon which any such aid or contributions may be given or made;

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

(t) To enter into contracts with, to accept aid, loans and grants from, to cooperate with and to do any and all things not specifically prohibited by this act or the Constitution of Mississippi that may be necessary in order to avail itself of the aid and cooperation of the United States of America, the state,

any county or municipality, or any agency, instrumentality or political subdivision of any of the foregoing in furtherance of the purposes of this article; to give such assurances, contractual or otherwise, to or for the benefit of any of the foregoing as may be required in connection with, or as conditions precedent to the receipt of, any such aid, loan or grant; and to take such action not in violation of law as may be necessary in order to qualify the authority to receive funds appropriated by any of the foregoing;

(u) To give such assurances, contractual or otherwise, and to make such commitments and agreements as may be necessary or desirable to preclude the exercise of any rights of recovery with respect to, or the forfeiture of title to, any of its health care facilities or other property or any health care facilities or other property proposed to be acquired by it;

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

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

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

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

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

(aa) To exercise all powers granted under this section in such a manner as the regional health authority, through the authority board, may determine to be consistent with the purposes of this act, including the state action immunity provided by Section 2 of this act from state and federal antitrust laws to the fullest extent possible, notwithstanding that as a consequence of such exercise of such powers it engages in activities that may be deemed "anticompetitive" or which displace competition within the meaning or contemplation of the antitrust laws of this state or of the United States; and

(bb) To enter into such contracts, agreements, leases and other instruments, and to take such other actions, as may be necessary or convenient to accomplish any purpose for which the

authority was organized or to exercise any power expressly granted hereunder.

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

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

SECTION 14. Issuance of bonds. The authority is authorized and empowered to make appropriations of funds and to issue and sell bonds, notes or other evidences of indebtedness thereof, for the benefit of the authority, in the same manner as, and subject to all duties, obligations and provisions set forth in Sections 41-13-19, 41-13-21, 41-13-23, 41-13-24 and 41-13-25.

SECTION 15. Trust to insure against public liability claims. The authority is authorized to establish, maintain, administer and operate any trust as described in Section 41-13-101 and, in such event, shall be subject to the terms, provisions and requirements of Sections 41-13-101 through 41-13-107.

SECTION 16. Retirement and disability benefits. The authority established under this act is authorized to participate

in the Public Employees' Retirement System as a political subdivision under the provisions of Section 25-11-105(f).

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

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

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

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

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

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

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

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

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

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

(f) "Employee" means any officer, employee or servant of the State of Mississippi or a political subdivision of the state, including elected or appointed officials and persons acting on behalf of the state or a political subdivision in any official capacity, temporarily or permanently, in the service of the state or a political subdivision whether with or without compensation, including firefighters who are members of a volunteer fire department that is a political subdivision. The term "employee" shall not mean a person or other legal entity while acting in the capacity of an independent contractor under contract to the state or a political subdivision; and

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

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

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

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

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

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

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

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

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

(i) "Political subdivision" means any body politic or body corporate other than the state responsible for governmental activities only in geographic areas smaller than that of the state, including, but not limited to, any county, municipality, school district, charter school, volunteer fire department that is a chartered nonprofit corporation providing emergency services under contract with a county or municipality, community hospital as defined in Section 41-13-10, regional health authority as defined in Section 3 of this act, airport authority, or other instrumentality of the state, whether or not the body or instrumentality has the authority to levy taxes or to sue or be sued in its own name.

(j) "State" means the State of Mississippi and any office, department, agency, division, bureau, commission, board, institution, hospital, college, university, airport authority or

other instrumentality thereof, whether or not the body or instrumentality has the authority to levy taxes or to sue or be sued in its own name.

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

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

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

(a) "Affected person" means (i) the applicant; (ii) a person residing within the geographic area to be served by the applicant's proposal; (iii) a person who regularly uses health care facilities or HMOs located in the geographic area of the proposal which provide similar service to that which is proposed; (iv) health care facilities and HMOs which have, prior to receipt of the application under review, formally indicated an intention to provide service similar to that of the proposal being considered at a future date; (v) third-party payers who reimburse health care facilities located in the geographical area of the proposal; or (vi) any agency that establishes rates for health

care services or HMOs located in the geographic area of the proposal.

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

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

(ii) "Capital expenditure," when pertaining to other than major medical equipment, shall mean any expenditure which under generally accepted accounting principles consistently applied is not properly chargeable as an expense of operation and maintenance and which exceeds, for clinical health services, as defined in * * * paragraph (k) below, Five Million Dollars ($5,000,000.00), adjusted for inflation as published by the State Department of Health or which exceeds, for nonclinical health services, as defined in * * * paragraph (k) below, Ten Million

Dollars ($10,000,000.00), adjusted for inflation as published by the State Department of Health.

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

(iv) In those instances where a health care facility or other provider of health services proposes to provide a service in which the capital expenditure for major medical equipment or other than major medical equipment or a combination of the two (2) may have been split between separate parties, the total capital expenditure required to provide the proposed service shall be considered in determining the necessity of certificate of need review and in determining the appropriate certificate of need review fee to be paid. The capital expenditure associated with facilities and equipment to provide services in Mississippi shall be considered regardless of where the capital expenditure was made, in state or out of state, and regardless of the domicile of

the party making the capital expenditure, in state or out of state.

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

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

(i) A legally binding written contract has been consummated by the proponent and a lawfully licensed contractor to construct and/or complete the intent of the proposal within a specified period of time in accordance with final architectural

plans which have been approved by the licensing authority of the State Department of Health;

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

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

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

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

(g) "Develop," when used in connection with health services, means to undertake those activities which, on their completion, will result in the offering of a new institutional health service or the incurring of a financial obligation as defined under applicable state law in relation to the offering of such services.

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

(i) "Hospital" means an institution which is primarily engaged in providing to inpatients, by or under the supervision of physicians, diagnostic services and therapeutic services for medical diagnosis, treatment and care of injured, disabled or sick persons, or rehabilitation services for the

rehabilitation of injured, disabled or sick persons. Such term does not include psychiatric hospitals.

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

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

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

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

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

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

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

(ix) "Home health agency" means a public or privately owned agency or organization, or a subdivision of such an agency or organization, properly authorized to conduct business in Mississippi, which is primarily engaged in providing to

individuals at the written direction of a licensed physician, in the individual's place of residence, skilled nursing services provided by or under the supervision of a registered nurse licensed to practice in Mississippi, and one or more of the following services or items:

1. Physical, occupational or speech therapy;

2. Medical social services;

3. Part-time or intermittent services of a home health aide;

4. Other services as approved by the licensing agency for home health agencies;

5. Medical supplies, other than drugs and biologicals, and the use of medical appliances; or

6. Medical services provided by an intern or resident-in-training at a hospital under a teaching program of such hospital.

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

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

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

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

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

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

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

5. A tendency to develop physical symptoms or fears associated with personal or school problems. An

establishment furnishing primarily domiciliary care is not within this definition.

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

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

(xiii) "Comprehensive medical rehabilitation facility" means a hospital or hospital unit that is licensed and/or certified as a comprehensive medical rehabilitation facility which provides specialized programs that are accredited by the Commission on Accreditation of Rehabilitation Facilities

and supervised by a physician board certified or board eligible in physiatry or other doctor of medicine or osteopathy with at least two (2) years of training in the medical direction of a comprehensive rehabilitation program that:

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

2. Emphasizes education and training of individuals with disabilities;

3. Incorporates at least the following core disciplines:

* * *a. Physical Therapy;

* * *b. Occupational Therapy;

* * *c. Speech and Language Therapy;

* * *d. Rehabilitation Nursing; and

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

* * *a. Psychology;

* * *b. Audiology;

* * *c. Respiratory Therapy;

* * *d. Therapeutic Recreation;

* * *e. Orthotics;

* * *f. Prosthetics;

* * *g. Special Education;

* * *h. Vocational Rehabilitation;

* * *i. Psychotherapy;

* * *j. Social Work;

* * *k. Rehabilitation Engineering.

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

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

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

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

(iii) Provides physician services primarily:

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

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

(j) "Health service area" means a geographic area of the state designated in the State Health Plan as the area to be

used in planning for specified health facilities and services and to be used when considering certificate of need applications to provide health facilities and services.

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

(l) "Institutional health services" shall mean health services provided in or through health care facilities and shall include the entities in or through which such services are provided.

(m) "Major medical equipment" means medical equipment designed for providing medical or any health-related service which costs in excess of One Million Five Hundred Thousand Dollars ($1,500,000.00). However, this definition shall not be applicable

to clinical laboratories if they are determined by the State Department of Health to be independent of any physician's office, hospital or other health care facility or otherwise not so defined by federal or state law, or rules and regulations promulgated thereunder.

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

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

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

(q) "Provider" shall mean any person who is a provider or representative of a provider of health care services requiring a certificate of need under Section 41-7-171 et seq., or who has any financial or indirect interest in any provider of services.

(r) "Radiation therapy services" means the treatment of cancer and other diseases using ionizing radiation of either high energy photons (x-rays or gamma rays) or charged particles (electrons, protons or heavy nuclei). However, for purposes of a

certificate of need, radiation therapy services shall not include low energy, superficial, external beam x-ray treatment of superficial skin lesions.

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

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

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

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

41-13-11. (1) *** * *** The board of trustees of any community hospital is *** * *** authorized, in its discretion, to obtain and pay for, out of operating funds of the community hospital, liability insurance of such kinds as *** * *** the board of trustees deems advisable covering the operation of *** * *** the community hospital, including trustees, employees and volunteers, and every department thereof, and all machinery, equipment, appliances and motor

vehicles thereof or used in connection therewith so as to cover damages or injury to persons or property or both caused by the negligence of any member of * * * the board of trustees or of any officer, director, agent, servant, attorney, employee or volunteer of such hospital while engaged in the performance of his duties or working in connection with the operation of * * * the community hospital. Such insurance shall either be procured from a company or companies authorized to do business and doing business in the State of Mississippi or provided through a program of self insurance established pursuant to the provisions of Section 11-46-17 * * *. Such insurance shall be for such amounts of coverage and shall cover such trustees, employees, volunteers, departments, installations, equipment, facilities and activities as the board of trustees, in its discretion, shall determine. The board of trustees may likewise indemnify, either by the purchase of insurance or, directly, where funds are available, in whole or in part, any trustee, officer, director, agent, volunteer or employee of * * * the facility or program for actual personal expenses incurred in the defense of any suit, or judgments resulting from * * * the suit, brought against * * * the trustee, officer, director, agent, volunteer or employee for alleged negligent or wrongful conduct committed while under the employment of or while providing service to a community hospital.

(* * *2) Notwithstanding the authority to purchase or provide liability insurance as provided for in subsection

(* * *1) of this section, any community hospital, owner or board of trustees shall be subject to and shall be governed by the provisions of Section 11-46-1 et seq., * * * for any cause of action which accrues from and after October 1, 1993, on account of any wrongful or tortious act or omission of any such governmental entity, as defined in Section 11-46-1, * * * or its employees relating to or in connection with any activity or operation of any community hospital.

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

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

41-13-15. (1) Any county and/or any political or judicial subdivision of a county and/or any municipality of the State of Mississippi, acting individually or jointly, may acquire and hold real estate for a community hospital either recognized and/or licensed as such by either the State of Mississippi or the United States Government, and may, after complying with applicable health planning and licensure statutes, construct a community hospital thereon and/or appropriate funds according to the provisions of this chapter for the construction, remodeling, maintaining, equipping, furnishing and expansion of such facilities by the board of trustees upon such real estate.

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

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

(4) Owners and boards of trustees, acting jointly or severally, may acquire and hold real estate for offices for physicians and other health care practitioners and related health care or support facilities, provided that any contract for the purchase of real property must be ratified by the owner, and may thereon construct and equip, maintain and remodel or expand such offices and related facilities, and the board of trustees may

lease same to members of the hospital staff or others at a rate deemed to be in the best interest of the community hospital.

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

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

(7) (a) Except as provided for in subsection (11) of this section, owners may lease all or part of the property, real or personal, comprising a community hospital, including any related facilities, wherever located, and/or assets of such community hospital, to any individual, partnership or corporation, whether operating on a nonprofit basis or on a profit basis, or to the board of trustees of such community hospital or any other owner or board of trustees, subject to the applicable provisions of subsections (8), (9) and (10) of this section. The term of such lease shall not exceed fifty (50) years. Such lease shall be conditioned upon (i) the leased facility continuing to operate in

a manner safeguarding community health interests; (ii) the proceeds from the lease being first applied against such bonds, notes or other evidence of indebtedness as are issued pursuant to Section 41-13-19 as and when they are due, provided that the terms of the lease shall cover any indebtedness pursuant to Section 41-13-19; and (iii) any surplus proceeds from the lease being deposited in the general fund of the owner, which proceeds may be used for any lawful purpose. Such lease shall be subject to the express approval of the board of trustees of the community hospital, except in the case where the board of trustees of the community hospital will be the lessee. However, owners may not lease any community hospital to the University of Mississippi Medical Center unless first the University of Mississippi Medical Center has obtained authority to lease such hospital under specific terms and conditions from the Board of Trustees of State Institutions of Higher Learning.

If the owner wishes to lease a community hospital without an option to sell it and the approval of the board of trustees of the community hospital is required but is not given within thirty (30) days of the request for its approval by the owner, then the owner may enter such lease as described herein on the following conditions: A resolution by the owner describing its intention to enter such lease shall be published once a week for at least three (3) consecutive weeks in at least one (1) newspaper published in the county or city, as the case may be, or if none be so

published, in a newspaper having a general circulation therein. The first publication of such notice shall be made not less than twenty-one (21) days prior to the date fixed in such resolution for the lease of the community hospital and the last publication shall be made not more than seven (7) days prior to such date. If, on or prior to the date fixed in such resolution for the lease of the community hospital, there shall be filed with the clerk of the owner a petition signed by twenty percent (20%) or fifteen hundred (1500), whichever is less, of the qualified voters of such owner, requesting that an election be called and held on the question of the lease of the community hospital, then it shall be the duty of the owner to call and provide for the holding of an election as petitioned for. In such case, no such lease shall be entered into unless authorized by the affirmative vote of the majority of the qualified voters of such owner who vote on the proposition at such election. Notice of such election shall be given by publication in like manner as hereinabove provided for the publication of the initial resolution. Such election shall be conducted and the return thereof made, canvassed and declared as nearly as may be in like manner as is now or may hereafter be provided by law in the case of general elections in such owner. If, on or prior to the date fixed in the owner's resolution for the lease of the community hospital, no such petition as described above is filed with the clerk of the owner, then the owner may proceed with the lease subject to the other requirements of this

section. Subject to the above conditions, the lease agreement shall be upon such terms and conditions as may be agreed upon and may make such provision for transfers of tangible and intangible personal property and operating funds and/or for the assumption of liabilities of the community hospital and for such lease payments, all as may be deemed appropriate by the owners.

(b) Owners may sell and convey all or part of the property, real or personal, comprising a community hospital, including any related facilities, wherever located, and/or assets of such community hospital, to any individual, partnership or corporation, whether operating on a nonprofit basis or on a profit basis, or to the board of trustees of such community hospital or any other owner or board of trustees, subject to the applicable provisions of subsections (8) and (10) of this section. Such sale and conveyance shall be upon such terms and conditions as may be agreed upon by the owner and the purchaser that are consistent with the requirements of this section, and the parties may make such provisions for the transfer of operating funds or for the assumption of liabilities of the facility, or both, as they deem appropriate. However, such sale and conveyance shall be conditioned upon (i) the facility continuing to operate in a manner safeguarding community health interests; (ii) the proceeds from such sale being first applied against such bonds, notes or other evidence of indebtedness as are issued pursuant to Section 41-13-19 as and when they are due, provided that the terms of the

sale shall cover any indebtedness pursuant to Section 41-13-19; and (iii) any surplus proceeds from the sale being deposited in the general fund of the owner, which proceeds may be used for any lawful purpose. However, owners may not sell or convey any community hospital to the University of Mississippi Medical Center unless first the University of Mississippi Medical Center has obtained authority to purchase such hospital under specific terms and conditions from the Board of Trustees of State Institutions of Higher Learning.

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

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

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

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

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

(9) After the review and analysis under subsection (8) of this section, an owner may choose to sell or lease the community hospital. If an owner chooses to sell such hospital or lease the hospital with an option to sell it, the owner shall follow the procedure specified in subsection (10) of this section. If an owner chooses to lease the hospital without an option to sell it, it shall first spread upon its minutes why such a lease is in the best interests of the persons living in the area served by the facility to be leased, and it shall make public any and all findings and recommendations made in the review required under proposals for the lease, which shall state clearly the minimum required terms of all respondents and the evaluation process that will be used when the owner reviews the proposals. The owner shall lease to the respondent submitting the highest and best proposal. In no case may the owner deviate from the process provided for in the request for proposals.

(10) If an owner wishes to sell such community hospital or lease the hospital with an option to sell it, the owner first shall conduct a public hearing on the issue of the proposed sale or lease with an option to sell the hospital. Notice of the date,

time, location and purpose of the public hearing shall be published once a week for at least three (3) consecutive weeks in at least one (1) newspaper published in the county or city, as the case may be, or if none be so published, in a newspaper having a general circulation therein. The first publication of the notice shall be made not less than twenty-one (21) days before the date of the public hearing and the last publication shall be made not more than seven (7) days before that date. If there is filed with the clerk of the owner not more than twenty-one (21) days after the date of the public hearing, a petition signed by twenty percent (20%) or fifteen hundred (1500), whichever is less, of the qualified voters of the owner, requesting that an election be called and held on the question of whether the owner should proceed with the process of seeking proposals for the sale or lease with an option to sell the hospital, then it shall be the duty of the owner to call and provide for the holding of an election as petitioned for. Notice of the election shall be given by publication in the same manner as provided for the publication of the notice of the public hearing. The election shall be conducted and the return thereof made, canvassed and declared in the same manner as provided by law in the case of general elections in the owner. If less than a majority of the qualified voters of the owner who vote on the proposition at such election vote in favor of the owner proceeding with the process of seeking proposals for the sale or lease with an option to sell the

hospital, then the owner is not authorized to sell or lease the hospital. If a majority of the qualified voters of the owner who vote on the proposition at such election vote in favor of the owner proceeding with the process of seeking proposals for the sale or lease with an option to sell the hospital, then the owner may seek proposals for the sale or lease of the hospital. If no such petition is timely filed with the clerk of the owner, then the owner may proceed with the process of seeking proposals for the sale or lease with an option to sell the hospital. The owner shall adopt a resolution describing its intention to sell or lease with an option to sell the hospital, which shall include the owner's reasons why such a sale or lease is in the best interests of the persons living in the area served by the facility to be sold or leased. The owner then shall publish a copy of the resolution; the requirements for proposals for the sale or lease with an option to sell the hospital, which shall state clearly the minimum required terms of all respondents and the evaluation process that will be used when the owner reviews the proposals; and the date proposed by the owner for the sale or lease with an option to sell the hospital. Such publication shall be made once a week for at least three (3) consecutive weeks in at least one (1) newspaper published in the county or city, as the case may be, or if none be so published, in a newspaper having a general circulation therein. The first publication of the notice shall be made not less than twenty-one (21) days before the date proposed

for the sale or lease with an option to sell the hospital and the last publication shall be made not more than seven (7) days before that date. After receiving proposals, such sale or lease shall be made to the respondent submitting the highest and best proposal. In no case may the owner deviate from the process provided for in the request for proposals.

(11) A lessee of a community hospital, under a lease entered into under the authority of Section 41-13-15, in effect prior to July 15, 1993, or an affiliate thereof, may extend or renew such lease whether or not an option to renew or extend the lease is contained in the lease, for a term not to exceed fifteen (15) years, conditioned upon (a) the leased facility continuing to operate in a manner safeguarding community health interest; (b) proceeds from the lease being first applied against such bonds, notes or other evidence of indebtedness as are issued pursuant to Section 41-13-19; (c) surplus proceeds from the lease being used for health related purposes; (d) subject to the express approval of the board of trustees of the community hospital; and (e) subject to the express approval of the owner. If no board of trustees is then existing, the owner shall have the right to enter into a lease upon such terms and conditions as agreed upon by the parties. Any lease entered into under this subsection (11) may contain an option to purchase the hospital, on such terms as the parties shall agree.

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

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

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

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

41-13-19. Such counties, cities and towns, supervisors districts, judicial districts and election districts of a county are authorized and empowered to make appropriations of the funds thereof for the purpose of Sections 41-13-15 through 41-13-51, and are *** * *** authorized and empowered to issue and sell the bonds, notes or other evidences of indebtedness thereof, for the purpose

of providing funds with which to acquire real estate for and to establish, erect, build, construct, remodel, add to, acquire, equip and furnish community hospitals, nurses' homes, health centers, health departments, diagnostic or treatment centers, rehabilitation facilities, nursing homes and related facilities under the provisions of such sections. Such bonds, notes or other evidences of indebtedness secured by a pledge of the full faith, credit, and resources of the issuing entity shall not be issued in an amount which will exceed the limit of indebtedness of the county, city, town, supervisors district, judicial district or election district issuing the same, as such limit is prescribed by Sections 19-9-1 et seq., and Sections 21-33-301 et seq. *** * ***

Before issuing any such bonds, notes or other evidences of indebtedness secured by a pledge of the full faith, credit, and resources of the issuing entity, the board of supervisors, acting for a county or supervisors district, judicial district or election district thereof, or the mayor and board of aldermen, or city council, or other like governing body, acting for a city or town, shall adopt a resolution declaring its intention to issue the same, stating the amount and purposes thereof, whether such hospital, nurses' home, health center, health department, diagnostic or treatment center, rehabilitation facility, nursing home or related facilities are to be erected, acquired, remodeled, equipped, furnished, maintained and operated by such county, city, town or supervisors district separately, or jointly with one or

more other counties, cities, towns, supervisors districts, judicial districts or election districts of a county, and fixing the date upon which further action will be taken to provide for the issuance of such bonds, notes or other evidences of indebtedness. The full text of such resolution shall be published once a week for at least three (3) consecutive weeks in at least one (1) newspaper published in the county or city, as the case may be, or if none be so published, in a newspaper having a general circulation therein. The first publication of such notice shall be made not less than twenty-one (21) days prior to the date fixed in such resolution, as aforesaid, and the last publication shall be made not more than seven (7) days prior to such date. If, on or prior to the date fixed in such resolution, as aforesaid, there shall be filed with the clerk of the body by which such resolution was adopted a petition signed by twenty percent (20%) or fifteen hundred (1500), whichever is less, of the qualified voters of such county, city, town, supervisors district, judicial district or election district, as the case may be, requesting that an election be called and held on the question of the issuance of such bonds, notes or other evidences of indebtedness, then it shall be the duty of the board of supervisors, board of aldermen, city council, or other governing body, as the case may be, to call and provide for the holding of an election as petitioned for. In such case no such bonds, notes or other evidences of indebtedness secured by a pledge of the full faith, credit, and resources of the issuing

entity shall be issued unless authorized by the affirmative vote of a majority of the qualified voters of such county, city, town, supervisors district, judicial district or election district, as the case may be, who vote on the proposition at such election. Notice of such election shall be given by publication in like manner as hereinabove provided for the publication of the initial resolution. Such election shall be conducted and the return thereof made, canvassed and declared as nearly as may be in like manner as is now or may hereafter be provided by law in the case of general elections in such county, city, town, supervisors district, judicial district or election district.

In the discretion of the board of supervisors, board of aldermen, city council, or other governing body, as the case may be, and after adoption of a resolution declaring its intention to issue such bonds, notes or other evidences of indebtedness secured by a pledge of the full faith, credit, and resources of the issuing entity, an election on the question of the issuance of such bonds, notes or other evidences of indebtedness may be called and held as hereinabove provided without the necessity of publishing *** * *** the resolution and whether or not a protest to the issuance be filed with the clerk of the governing body. In the event that the question of the issuance of such bonds, notes or other evidences of indebtedness secured by a pledge of the full faith, credit, and resources of the issuing entity be not authorized at such election, such question shall not again be

submitted to a vote until the expiration of a period of six (6) months from and after the date of such election.

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

The board of a regional health authority under Sections 1 through 19 of this act is authorized and empowered to make appropriations of funds and to issue and sell bonds, notes or other evidences of indebtedness thereof, for the benefit of the authority, in the same manner as, and subject to all duties, obligations and provisions set forth in Sections 41-13-19 through 41-13-25.

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

41-13-35. (1) The board of trustees of any community hospital shall have full authority to appoint an administrator,

who shall not be a member of the board of trustees, and to delegate reasonable authority to such administrator for the operation and maintenance of such hospital and all property and facilities otherwise appertaining thereto.

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

(3) The board of trustees shall be responsible for governing the community hospital under its control and shall make and enforce staff and hospital bylaws and/or rules and regulations necessary for the administration, government, maintenance and/or expansion of such hospitals. The board of trustees shall keep minutes of its official business and shall comply with Section 41-9-68.

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

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

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

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

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

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

(e) To devise and implement employee incentive programs;

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

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

(h) To file suit on behalf of the community hospital to enforce any right or claims accruing to the hospital and to defend

and/or settle claims against the community hospital and/or its board of trustees;

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

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

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

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

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

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

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

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

(q) Establish a fair and equitable system for the billing of patients for care or users of services received through the community hospital, which in the exercise of the board of

trustees' prudent fiscal discretion, may allow for rates to be classified according to the potential usage by an identified group or groups of patients of the community hospital's services and may allow for standard discounts where the discount is designed to reduce the operating costs or increase the revenues of the community hospital. Such billing system may also allow for the payment of charges by means of a credit card or similar device and allow for payment of administrative fees as may be regularly imposed by a banking institution or other credit service organization for the use of such cards;

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

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

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

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

(v) To form, establish, fund and operate nonprofit corporations, nonprofit limited liability companies, state-sponsored entities or other similar organizations, either directly or through a nonprofit corporation formed by the community hospital, which are jointly owned with other public or private hospitals, for-profit or nonprofit corporations, or other health care-related organizations, for the purpose of conducting activities within or outside of the community hospital's service area for the benefit of the community hospital, including, but not limited to, joint hospital acquisitions, group purchasing, clinically integrated networks, payor contracting, and joint requests for federal and state grants and funding;

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

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

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

(z) To enter into any contract for a term of any length, regardless of whether the length or term of the contract exceeds the term of the board of trustees of the community hospital;

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

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

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

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

(ee) To exercise all powers granted under this section in such a manner as the community hospital, through its board of trustees, may determine to be consistent with the purposes of this chapter, including the state action immunity provided by this section from state and federal antitrust laws to the fullest extent possible, notwithstanding that as a consequence of such exercise of such powers it engages in activities that may be deemed "anticompetitive" or which displace competition within the meaning or contemplation of the antitrust laws of this state or of the United States; and

(ff) The board of trustees shall not sell, purchase, convey, lease, or enter into agreements that have the effect of selling, purchasing, conveying, or leasing any real property or

enter into management agreements, merger agreements, joint ventures, joint-operating agreements or similar arrangements that transfer control of any real property or the operations of a community hospital described in this subsection without the prior approval of the owners of the real property.

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

(7) No board of trustees, individual trustee or any other person who is an agent or servant of the trustees of any community hospital shall have any personal financial interest in any not-for-profit or for-profit organization which, regardless of its stated purpose of incorporation, provides assistance in the form of grants of money or property to community hospitals or provides services to community hospitals in the form of performance of functions normally associated with the operations of a hospital.

(8) The Legislature finds and declares as follows:

(a) The needs of the residents of Mississippi can best be served by community hospitals having the legal, financial and operational flexibility to take full advantage of opportunities and challenges presented by the evolving health care environment and to take whatever actions are necessary to enable the community

hospitals' continuation as health care systems that provide the finest possible quality of care consistent with reasonable costs.

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

(c) The geographic areas served by community hospitals include rural populations and other groups that experience significant health disparities. Health disparities are differences in health status when compared to the population overall, often characterized by indicators such as higher incidence of disease and/or disability, increased mortality rates,

and lower life expectancies. Rural risk factors for health disparities include geographic isolation, lower socioeconomic status, higher rates of health risk behaviors and limited access to health care specialists and subspecialists. As a result of these health disparities, the residents of areas served by community hospitals have high rates of mortality and morbidity, heart disease, cancer, diabetes and other illnesses. The areas also include a high percentage of uninsured individuals and Medicaid patients, which are medically underserved groups. Community hospitals have demonstrated their ability to provide high-quality health care and to improve health conditions and outcomes as well as access to care. This section will significantly strengthen the ability of community hospitals to serve the health care needs of the residents of their service areas.

(d) The community hospitals' investment of significant public assets and their efforts to provide high quality health care services to medically underserved populations are jeopardized by potential limits on the ability of community hospitals to collaborate and consolidate with other public, private, for-profit and nonprofit health care facilities and providers. The Legislature expressly finds that the benefits of collaboration and consolidation by the community hospitals outweigh any adverse impact on competition. The benefits of the community hospitals' efforts to collaborate and consolidate include, but are not

limited to, preserving and expanding needed health care services in its service area; consolidating unneeded or duplicative health care services; enhancing the quality of, and expanding access to, health care delivered to medically underserved and rural populations; and lowering costs and improving the efficiency of the health care services it delivers. Based on the findings contained in this section, the Legislature affirmatively expresses a policy to allow community hospitals to consolidate with other public, private, for-profit or nonprofit hospitals, health care facilities and providers and to engage in collaborative activities consistent with their health care purposes, notwithstanding that those consolidations and collaborations may have the effect of displacing competition in the provision of hospital or other health care-related services. In engaging in such consolidations and collaborations with other public, private, for-profit or nonprofit hospitals, health care facilities and providers, the community hospital shall be considered to be acting pursuant to clearly articulated state policy as established in this section and shall not be subject to federal or state antitrust laws while so acting. With respect to the consolidations, collaborative activities and other activities contemplated in this section, the community hospital and the public, private, for-profit or nonprofit entities with which it consolidates, collaborates, or enters into any of the transactions set forth in this section, shall be immune from liability under the federal and state

antitrust laws and those activities are provided with state action immunity from federal and state antitrust laws to the fullest extent possible.

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

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

41-13-47. (1) On or before the first Monday in September of each year, the * * * board of trustees shall make, enter on its minutes and file with the owner or owners, separately or jointly interested in * * * the hospital, a proposed budget based on anticipated income and expenditures for the ensuing fiscal year. Such budget, as submitted or amended, shall be approved by the * * * owner or owners, as the case may be, which approval shall be evidenced by a proper order recorded upon the minutes of each such owner.

(2) On or before the first Monday in March of each year, * * * the board of trustees shall also make, enter on its minutes and file with such owner or owners a full fiscal year

report which shall contain a complete and correct accounting of all funds received and expended for all hospital purposes.

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

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

41-13-101. (1) There is *** * *** authorized the establishment, maintenance, administration and operation of any trust established by agreement of any hospitals or other health-care units licensed as such by the State of Mississippi, including, without limitation, community hospitals established under this chapter (hereinafter referred to as "hospitals") as grantors, with such hospitals as beneficiaries, for the purpose of insuring against general public liability claims based upon acts or omissions of such hospitals, including, without limitation, claims based upon malpractice. Such hospitals may, by trust agreement among themselves and a trustee or trustees of their selection, specify the terms, conditions and provisions of such a trust.

(2) The board of a regional health authority under Sections 1 through 19 of this act is authorized to establish, maintain, administer and operate any trust as described in this section and,

in such event, shall be subject to the terms, provisions and requirements of Sections 41-13-101 through 41-13-107.

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

ST: Regional health authorities; create the Delta Regional Health Authority and authorize creation of additional regional authorities.