ORDER: APPROVE TRUST FUND BOARD OF DIRECTOR'S RECOMMENDATION TO AMEND THE TRUST FUND <u>LOCAL AND PRIVATE</u>

Motion was made by Mike Roberts, duly seconded by Chad McLarty, to approve Trust Fund Board of Directors' recommendation to amend the Trust Fund Local and Private.

The vote on the motion was as follows:

Supervisor Mike Pickens, voted yes
Supervisor Jeff Busby, voted yes
Supervisor Robert Blackmon, voted yes
Supervisor Chad McLarty, voted yes
Supervisor Mike Roberts, voted yes

After the vote, President Busby, declared the motion carried, this the 3rd day of February, 2014.

Jeff Busby

Jeff Busby, President
Board of Supervisor

Sherry J. Wall

Sherry Wall, Chancery Clerk

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2013

By: Senator(s) Tollison

To: Local and Private

SENATE BILL NO. 2930
(As Sent to Governor)

AN ACT TO AMEND CHAPTER 953, LOCAL AND PRIVATE LAWS OF 2012, TO INCLUDE CAPITAL GAINS WITHIN THE DEFINITION OF "INCOME" FOR PURPOSES OF THE LAFAYETTE COUNTY RESERVE AND TRUST FUND; TO MAKE IT CLEAR THAT THE BOARD OF SUPERVISORS OF LAFAYETTE COUNTY IS NOT REQUIRED TO APPOINT AN ADVISORY COMMITTEE FOR THE TRUST FUND; TO PROVIDE THAT THE BOARD OF TRUSTEES OF THE LAFAYETTE COUNTY RESERVE AND TRUST FUND SHALL MEET AT LEAST ONCE PER YEAR; TO MAKE IT CLEAR THAT THE MEETINGS OF THE BOARD OF TRUSTEES OF THE TRUST FUND ARE GOVERNED BY THE OPEN MEETINGS LAW; TO MAKE IT CLEAR THAT THE THAT THE LAFAYETTE COUNTY RESERVE AND TRUST FUND IS A POLITICAL SUBDIVISION FOR PURPOSES OF THE TORT CLAIMS LAW; TO AUTHORIZE THE BOARD OF TRUSTEES OF THE TRUST FUND TO DELEGATE INVESTMENT AUTHORITY TO INVESTMENT ADVISORS; TO PROVIDE THAT EVERY FISCAL YEAR AFTER THE FUND IS ESTABLISHED THE EARNING COMPONENT SHALL BE CONSIDERED AN AMOUNT EQUAL TO 3% OF THE AMOUNT OF THE FULL FUND BALANCE CALCULATED AT THE END OF EACH FISCAL YEAR, WHETHER OR NOT THE CORPUS COMPONENT HAS GENERATED ANY INCOME IN THAT FISCAL YEAR AND TO PROVIDE THAT ALL REMAINING PORTIONS OF THE ANNUAL INCOME EARNED FROM THE INVESTMENT OF THE FUND SHALL REMAIN IN THE FUND AS A PART OF THE CORPUS COMPONENT; TO PROVIDE THAT THE BOARD OF TRUSTEES MAY EXPEND FROM THE CORPUS COMPONENT AMOUNTS REQUIRED TO PAY THE AMOUNTS REQUIRED IN CONNECTION WITH THE MANAGEMENT BY THE TRUSTEES OF THE FUND IF THE EARNINGS COMPONENT IS INSUFFICIENT TO PAY THE AMOUNTS REQUIRED IN CONNECTION WITH THE MANAGEMENT BY THE TRUSTEES OF THE FUND; TO REVISE THE AMOUNT OF THE TRUST FUND THAT MAY BE TRANSFERRED TO THE COUNTY FOR SPECIAL PROJECTS; TO PROVIDE THAT THERE SHALL BE NO DISTRIBUTION OF THE EARNINGS COMPONENT IF THE FULL FUND BALANCE OF THE TRUST FUND FALLS BELOW AN AMOUNT EQUAL TO THE INITIAL DEPOSIT TO THE TRUST FUND; AND FOR RELATED PURPOSES.

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

SECTION 1. Chapter 951, Local and Private Laws of 2011, is amended as follows:

Section 1. It is hereby determined and declared that for the benefit of the people of Lafayette County, Mississippi, and the continued improvement and maintenance of Lafayette County, and for providing for the fiscal security and sustained revenue for the county and its citizens, that it is the purpose of this act to establish an alternative method to make funds available to fulfill these obligations and important and prudent purposes by authorizing the creation, operation, administration and governance of the Lafayette County Reserve and Trust Fund, through which the ongoing needs of the county shall be met and ongoing improvements to the county be made and through which the quality and welfare of all residents of Lafayette County will be increased, all to the public benefit and good, as more fully provided herein. This act shall apply only to the funds creating the Lafayette County Reserve and Trust Fund as more fully provided herein.

Section 2. As used in this act, unless a different meaning clearly appears in the context, the following terms shall have the following meaning:

(a) "Board of supervisors" means the Board of Supervisors of Lafayette County, Mississippi.

(b) "County" means Lafayette County, Mississippi, acting by and through its board of supervisors.

(c) "Clerk" means the clerk of the board of supervisors.

(d) "Fund" means the Lafayette County Reserve and Trust Fund established under this act for the deposit of the sales proceeds received by the county as a result of the termination of lease and for the sale of the real and personal property related to the existing Baptist Memorial Hospital-North Mississippi facilities.

(e) "Income" means all interest * * *, dividends and capital gains derived from the investment of monies in the fund.

Section 3. The board of supervisors is authorized to establish the Lafayette County Reserve and Trust Fund. The board of supervisors is authorized to fund and deposit into the fund all or a portion of the proceeds received by the county as a result of the termination of the lease and for the sale of the real and personal property related to the Baptist Memorial Hospital-North Mississippi facilities located on Lamar Avenue in the City of Oxford, Mississippi, and any income from the investment of those funds.

Section 4. (1) There is established the Board of Trustees of the Lafayette County Reserve and Trust Fund. The fund shall be administered, managed, invested and governed by the board of trustees.

(2) The board of trustees shall be the Board of Supervisors of Lafayette County.

(3) The board of supervisors is authorized, but not required, to appoint three (3) individuals to an advisory committee who shall possess the level of knowledge and skill in investment strategies as necessary, in the discretion of the board of supervisors, to provide advice to the board of trustees in the proper management of the fund.

(4) The term of office for members of the advisory committee, if appointed, shall run concurrently with the term of office of the board of supervisors.

(5) The president of the board of supervisors shall be chairman of the board of trustees and the vice president of the board of supervisors shall be the vice chairman of the board of trustees.

(6) The board of trustees shall conduct one (1) annual meeting at the call of the chairman. It is anticipated that the board of trustees shall conduct at least three (3) other meetings each calendar year. The board of trustees shall hold such special meetings at such time and place as may be called by the chairman. All meetings of the board of trustees shall be open to the public in accordance with Section 25-41-5(1), Mississippi Code of 1972, except as provided by Section 25-41-7, Mississippi Code of 1972, as interpreted by the courts and Attorney General of the State of Mississippi. Notice of each meeting shall be given in accordance with Section 25-41-13, Mississippi Code of 1972, and notice of each meeting shall be provided to each trustee. A quorum shall be

necessary to conduct business. Any trustee may attend any meeting via electronic means provided that such attendance complies with all applicable laws.

The Lafayette County Reserve and Trust Fund shall be considered a "political subdivision" as defined in Section 11-46-1, Mississippi Code of 1972, and the fund, its board of trustees and its employees, including officers, servants, trustees and any other individual who or entity which serves as an "employee" as that term is defined in Section 11-46-1, Mississippi Code of 1972, shall be entitled to rights, immunities and obligations provided by Section 11-46-1 et seq.

* * *6 The trustees shall administer and manage the fund and manage the principal and * * * income of the fund, and establish a comprehensive investment plan for the purposes of this act * * *. The comprehensive investment plan shall specify the policies to be utilized by the board of trustees in its administration of the fund. The board of trustees shall invest the fund in any of the investments authorized for the Public Employees' Retirement System of Mississippi under Section 25-11-121(1), Mississippi Code of 1972.

* * *8 In furtherance of the powers granted under subsection * * *6 of this section, the board of trustees shall have such powers as necessary or convenient to carry out the

purposes and provisions of this act, including, but not limited to, the following express powers:

a. To contract for necessary goods and services, to employ necessary personnel, and to engage the services of investment advisors and consultants for fund management, administrative and technical assistance in carrying out its duties and responsibilities in administering the fund;

b. To administer the fund in a manner that is sufficiently actuarially sound to meet the obligations of this act;

c. Subject to the terms, conditions, limitations and restrictions specified in Section 25-11-121(1) and subsection (* * *6) of this section, the board of trustees shall have power to sell, assign, transfer and dispose of any of the securities and investments of the fund and shall have the authority to delegate this authority to investment advisors, provided that any such sale, assignment * * *, transfer or delegation has the majority approval of the entire board of trustees; and

d. To annually prepare, or cause to be prepared, a report setting forth in appropriate detail an accounting of the fund and a description of the financial condition of the fund at the close of each fiscal year. The report shall be submitted on or before July 1 of each fiscal year.

Section 5. The fund shall be invested and disbursed as follows:

(a) The fund shall be divided into two (2) components: (i) the corpus component, and (ii) the * * * earnings component.

(b) The corpus component of the * * * fund shall consist of the initial deposit as described above, and additional subsequent deposits from the annual income earned from the investment of the fund. Except as otherwise provided in this act, the corpus shall be inviolate and maintained and used to generate * * * income and shall not be invaded or used by the trustees.

(c) The earnings component shall be * * * defined and available for distribution by the trustees as described in this subsection.

(d) Every fiscal year after the fund is established, the earnings component shall be considered an amount equal to three percent (3%) of the amount of the full fund balance, calculated at the end of each fiscal year, whether or not the corpus component has generated any income in that fiscal year. All remaining portions of the annual income earned from the investment of the fund shall remain in the fund as a part of the corpus component.

(* * *e) On or before July 1 of each year, the trustees shall determine the portion of the earnings component of the * * * fund and shall report to the board of supervisors as provided for in Section 4 of this act. Trustees are specifically given the power to expend from the earnings component amounts required in connection with the management by the trustees of the fund, including, but not limited to, payments for accounting fees, legal fees and investment advisor or fund-management fees. The board of trustees is specifically given the power to expend from the corpus component amounts required to pay the amounts required in connection with the management by the trustees of the fund if the earnings component is insufficient to pay the amounts required in connection with the management by the trustees of the fund. These expenditures shall be included in the full report as required in Section 4 of this act.

* * *f * * * Funds comprising the earnings component * * * may be transferred from the fund to the general fund of the county upon a vote of the board of supervisors at the direction of the clerk and shall be available for appropriation and spending on designated "special" projects or purposes, as determined by the board of supervisors; however, there shall be no distribution of the earnings component if the full fund balance falls below an amount equal to the initial deposit to the fund. That portion of the earnings component not transferred to the county for such general purposes, if any, shall remain in the fund and be added to, and be considered a part of, the corpus component for the ensuing fiscal years.

Section 6. 1 In addition to the disbursements provided in Section 5 of this act, the board of supervisors, upon a majority vote, is authorized to withdraw monies from the corpus component of the trust:

(a) In an amount not to exceed five percent (5%) during each fiscal year;

(b) In any amount in the event a state emergency or local emergency has been declared under federal, state or local law.

(2) In the event of withdrawal of any portion of the corpus component by the county pursuant to subsection (1)(a) or (b) of this section, annual disbursements by the trustees of the earnings components authorized in Section 5 of this act shall cease and all income shall be retained by the trustees and repaid to the corpus until such time as the corpus component equals its full pre-withdrawal amount, at which time, disbursement of earning components in accordance with Section 5 of this act may continue.

Section 7. In the event the monies in the trust account equals a zero balance, the trust will thereupon be dissolved and this act will be repealed.

SECTION 2. This act shall take effect and be in force from and after its passage.