

By: Representative Guice

To: Public Buildings,
Grounds and LandsHOUSE BILL NO. 993
(As Passed the House)

1 AN ACT TO PROVIDE THAT ALL CAPITAL IMPROVEMENTS PROJECTS
2 COSTING ONE MILLION DOLLARS OR MORE SHALL BE FUNDED BY THE
3 LEGISLATURE IN THREE PHASES; TO DEFINE EACH PHASE; TO PROVIDE THAT
4 EACH PHASE SHALL BE FUNDED IN SEPARATE REGULAR SESSIONS OF THE
5 LEGISLATURE; TO DEFINE THE TERM "PREPLANNING"; TO REQUIRE ALL
6 STATE AGENCIES WHICH PLAN TO UNDERTAKE A CAPITAL IMPROVEMENTS
7 PROJECT TO SUBMIT A PREPLANNED CAPITAL IMPROVEMENTS PROJECT
8 PROJECTION TO THE BUREAU OF BUILDING, GROUNDS AND REAL PROPERTY
9 MANAGEMENT FOR EVALUATION; TO PROVIDE THAT ANY PROJECT COSTING
10 UNDER ONE MILLION DOLLARS SHALL NOT BE REQUIRED TO BE PREPLANNED;
11 TO AMEND SECTIONS 31-3-1 AND 31-11-1, MISSISSIPPI CODE OF 1972, TO
12 DEFINE THE TERM "PROGRAM MANAGEMENT"; AND FOR RELATED PURPOSES.

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

14 SECTION 1. Every capital improvements project, costing One
15 Million Dollars (\$1,000,000.00) or more, which is developed to
16 repair, renovate, construct, remodel, add to or improve a
17 state-owned public building shall be funded by the Legislature in
18 three (3) phases. The three (3) phases shall not be funded in the
19 same regular session of the Legislature, except that the
20 three-phase requirement shall not apply where the Legislature
21 finds that an emergency or critical need must be met or a court
22 order complied with. Each phase shall be funded in a separate
23 regular session of the Legislature. Except as provided in
24 subsection (2) of Section 2 of this act, Phase 1 shall be a
25 preplanned budget projection for the project and shall be funded
26 first. Phase 2 shall be the actual repair, renovation,
27 construction, remodeling, addition to or improvement of the
28 state-owned public building and shall be funded second. Phase 3,
29 if necessary, shall be the acquisition of furniture and equipment
30 for the capital improvements project and shall be funded last.

31 SECTION 2. (1) For the purposes of this act, the term

32 "preplanning" means the preliminary planning that establishes the
33 program, scope, design and budget for a capital improvements
34 project.

35 (2) Every state agency that plans to repair, renovate,
36 construct, remodel, add to or improve a state-owned public
37 building shall submit a preplanned capital improvements project
38 budget projection to the Bureau of Building, Grounds and Real
39 Property Management for evaluation. The bureau shall assess the
40 need for all preplanned projects submitted and shall compile a
41 report on its findings. Any capital improvements project costing
42 under One Million Dollars (\$1,000,000.00) shall not be required to
43 be preplanned.

44 (3) Upon the completion of any preplanning for a capital
45 improvements project, if such preplanning is funded with
46 self-generated funds by a state agency, the plan shall be
47 submitted to the bureau for evaluation.

48 (4) Any project that utilizes a program manager shall be
49 prohibited from having an individual and/or collectively change
50 order which shall exceed more than five percent (5%) of the total
51 contract cost of the project.

52 SECTION 3. Section 31-3-1, Mississippi Code of 1972, is
53 amended as follows:

54 31-3-1. The following words, as used in this chapter, shall
55 have the meanings specified below:

56 "Board": The State Board of Contractors created under this
57 chapter.

58 "Contractor": Any person contracting or undertaking as prime
59 contractor, subcontractor or sub-subcontractor of any tier to do
60 any erection, building, construction, reconstruction, repair,
61 maintenance or related work on any public or private project;
62 however, "contractor" shall not include any owner of a dwelling or
63 other structure to be constructed, altered, repaired or improved
64 and not for sale, lease, public use or assembly. It is further

65 provided that nothing herein shall apply to:

66 (a) Any contract or undertaking on a public project by
67 a prime contractor, subcontractor or sub-subcontractor of any tier
68 involving erection, building, construction, reconstruction,
69 repair, maintenance or related work where such contract,
70 subcontract or undertaking is less than Fifty Thousand Dollars
71 (\$50,000.00);

72 (b) Any contract or undertaking on a private project by
73 a prime contractor, subcontractor or sub-subcontractor of any tier
74 involving erection, building, construction, reconstruction,
75 repair, maintenance or related work where such contract,
76 subcontract or undertaking is less than One Hundred Thousand
77 Dollars (\$100,000.00);

78 (c) Highway construction, highway bridges, overpasses
79 and any other project incidental to the construction of highways
80 which are designated as federal aid projects and in which federal
81 funds are involved;

82 (d) A residential project to be occupied by fifty (50)
83 or fewer families and not more than three (3) stories in height;

84 (e) A residential subdivision where the contractor is
85 developing either single-family or multi-family lots;

86 (f) A new commercial construction project not exceeding
87 seventy-five hundred (7500) square feet and not more than two (2)
88 stories in height; or

89 (g) Erection of a microwave tower built for the purpose
90 of telecommunication transmissions.

91 "Certificate of responsibility": A certificate numbered and
92 held by a contractor issued by the board under the provisions of
93 this chapter after payment of the special privilege license tax
94 therefor levied under this chapter.

95 "Person": Any person, firm, corporation, joint venture or
96 partnership, association or other type of business entity.

97 "Private project": Any project for erection, building,

98 construction, reconstruction, repair, maintenance or related work
99 which is not funded in whole or in part with public funds.

100 "Program management": A professional service performed by a
101 private firm that supplements a state agency's staff for the
102 performance of capital building projects. A program management
103 service is procured through a professional services qualification
104 process in the same manner as architectural selection. The
105 program manager, or member of manager's firm, may not perform as
106 the architect or the contractor on any project for which they are
107 the program manager. The Bureau of Building, Grounds and Real
108 Property Management may set the criteria to qualify as a certified
109 program manager in the State of Mississippi. However, a program
110 management firm chosen by any state agency shall be a general
111 contractor, architect or engineer licensed in the State of
112 Mississippi, or a firm that: (i) has at least one (1) member of
113 the firm who holds a baccalaureate or higher degree in
114 architecture from a National Architectural Accrediting Board
115 accredited institution or a baccalaureate or higher degree in
116 engineering from an Accrediting Board of Engineering and
117 Technology accredited institution, and (ii) has been performing
118 program management services in the State of Mississippi for at
119 least three (3) years before July 1, 1999.

120 "Public agency": Any board, commission, council or agency of
121 the State of Mississippi or any district, county or municipality
122 thereof, including school, hospital, airport and all other types
123 of governing agencies created by or operating under the laws of
124 this state.

125 "Public funds": Monies of public agencies, whether obtained
126 from taxation, donation or otherwise; or monies being expended by
127 public agencies for the purposes for which such public agencies
128 exist.

129 "Public project": Any project for erection, building,
130 construction, reconstruction, repair, maintenance or related work

131 which is funded in whole or in part with public funds.

132 SECTION 4. Section 31-11-1, Mississippi Code of 1972, is
133 amended as follows:

134 31-11-1. (1) For purposes of this chapter, the following
135 terms shall have the meanings specified below:

136 (a) "State Building Commission" shall mean the
137 Governor's Office of General Services acting through the Bureau of
138 Buildings, Grounds and Real Property Management.

139 (b) "Program management" means a professional service
140 performed by a private firm that supplements a state agency's
141 staff for the performance of capital building projects. A program
142 management service is procured through a professional services
143 qualification process in the same manner as architectural
144 selection. The program manager, or member of manager's firm, may
145 not perform as the architect or the contractor on any project for
146 which they are the program manager. The Bureau of Buildings,
147 Grounds and Real Property Management may set the criteria to
148 qualify as a certified program manager in the State of
149 Mississippi. However, a program management firm chosen by any
150 state agency shall be a general contractor, architect or engineer
151 licensed in the State of Mississippi, or a firm that: (i) has at
152 least one (1) member of the firm who holds a baccalaureate or
153 higher degree in architecture from a National Architectural
154 Accrediting Board accredited institution or a baccalaureate or
155 higher degree in engineering from an Accrediting Board of
156 Engineering and Technology accredited institution, and (ii) has
157 been performing program management services in the State of
158 Mississippi for at least three (3) years before July 1, 1999.

159 (2) Wherever the term "state building commission" or
160 "building commission" appears in the laws of the State of
161 Mississippi, it shall be construed to mean the Governor's Office
162 of General Services.

163 SECTION 5. This act shall take effect and be in force from

164 and after July 1, 1999.