

By: Young

To: Universities and
Colleges;
Appropriations

HOUSE BILL NO. 1538

1 AN ACT TO REQUIRE CONSTRUCTION CONTRACTS ENTERED INTO BY THE
2 BOARD OF TRUSTEES OF STATE INSTITUTIONS OF HIGHER LEARNING AND
3 STATE INSTITUTIONS OF HIGHER LEARNING TO INCLUDE A PENALTY
4 PROVISION FOR UNTIMELY PERFORMANCE AND WARRANTY PROVISIONS; TO
5 AMEND SECTION 31-11-3, MISSISSIPPI CODE OF 1972, TO DELETE THE
6 EXCEPTION TO THE REQUIREMENT THAT STATE ARCHITECTURAL AND
7 ENGINEERING SERVICE REAPPROVED BY THE DEPARTMENT OF FINANCE AND
8 ADMINISTRATION FOR CONTRACTS PAID FOR BY SELF-GENERATED FUNDS OF
9 INSTITUTIONS OF HIGHER LEARNING; AND FOR RELATED PURPOSES.

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

11 SECTION 1. (1) Each contract entered into by the Board of
12 Trustees of State Institutions of Higher Learning or a state
13 institution of higher learning for a construction, renovation or
14 repair project, regardless of the source of funding used to defray
15 the cost of the project, must include a provision establishing the
16 date by which the project is to be completed and a clause
17 requiring the assessment of a penalty for each day that the
18 project is not certified as having been completed, by the party
19 authorized under the contract to make such certification, after
20 the date specified for completion. The terms of the contract must
21 provide that each day that the project is not certified as having
22 been completed is a separate violation of the contract and that
23 the penalty shall be assessed for each day's violation. The
24 amount of the penalty shall be established in the contract.

25 (2) Each contract described under subsection (1) of this
26 section must include a provision guaranteeing the quality of the
27 workmanship of the project and providing detailed warranties for
28 the various, specific components of the project. This provision
29 shall include, at a minimum, the period of duration of each

30 warranty, the remedies available if a warranty is breached and
31 appropriate penalties for a breach of warranty under the contract.

32 The warranties in the contract must be consistent with or more
33 stringent than the standard warranties used in the particular
34 industry involved.

35 SECTION 2. Section 31-11-3, Mississippi Code of 1972, is
36 amended as follows:

37 31-11-3. (1) The Department of Finance and Administration,
38 for the purposes of carrying out the provisions of this chapter,
39 in addition to all other rights and powers granted by law, shall
40 have full power and authority to employ and compensate architects
41 or other employees necessary for the purpose of making
42 inspections, preparing plans and specifications, supervising the
43 erection of any buildings, and making any repairs or additions as
44 may be determined by the Department of Finance and Administration
45 to be necessary, pursuant to the rules and regulations of the
46 State Personnel Board. The department shall have entire control
47 and supervision of, and determine what, if any, buildings,
48 additions, repairs or improvements are to be made under the
49 provisions of this chapter, subject to the approval of the Public
50 Procurement Review Board.

51 (2) The department shall have full power to erect buildings,
52 make repairs, additions or improvements, and buy materials,
53 supplies and equipment for any of the institutions or departments
54 of the state subject to the approval of the Public Procurement
55 Review Board. In addition to other powers conferred, the
56 department shall have full power and authority as directed by the
57 Legislature, or when funds have been appropriated for its use for
58 these purposes, to:

59 (a) Build a state office building;

60 (b) Build suitable plants or buildings for the use and
61 housing of any state schools or institutions, including the
62 building of plants or buildings for new state schools or
63 institutions, as provided for by the Legislature;

64 (c) Provide state aid for the construction of school
65 buildings;

66 (d) Promote and develop the training of returned

67 veterans of the United States in all sorts of educational and
68 vocational learning to be supplied by the proper educational
69 institution of the State of Mississippi, and in so doing allocate
70 monies appropriated to it for these purposes to the Governor for
71 use by him in setting up, maintaining and operating an office and
72 employing a state director of on-the-job training for veterans and
73 the personnel necessary in carrying out Public Law No. 346 of the
74 United States;

75 (e) Build and equip a hospital and administration
76 building at the Mississippi State Penitentiary;

77 (f) Build and equip additional buildings and wards at
78 the Boswell Retardation Center;

79 (g) Construct a sewage disposal and treatment plant at
80 the state insane hospital, and in so doing acquire additional land
81 as may be necessary, and to exercise the right of eminent domain
82 in the acquisition of this land;

83 (h) Build and equip the Mississippi central market and
84 purchase or acquire by eminent domain, if necessary, any lands
85 needed for this purpose;

86 (i) Build and equip suitable facilities for a training
87 and employing center for the blind;

88 (j) Build and equip a gymnasium at Columbia Training
89 School;

90 (k) Approve or disapprove the expenditure of any money
91 appropriated by the Legislature when authorized by the bill making
92 the appropriation;

93 (l) Expend monies appropriated to it in paying the
94 state's part of the cost of any street paving;

95 (m) Sell and convey state lands when authorized by the
96 Legislature, cause said lands to be properly surveyed and platted,
97 execute all deeds or other legal instruments, and do any and all
98 other things required to effectively carry out the purpose and
99 intent of the Legislature. Any transaction which involves state

100 lands under the provisions of this paragraph shall be done in a
101 manner consistent with the provisions of Section 29-1-1;

102 (n) Collect and receive from educational institutions
103 of the State of Mississippi monies required to be paid by these
104 institutions to the state in carrying out any veterans'
105 educational programs; and

106 (o) Purchase lands for building sites, or as additions
107 to building sites, for the erection of buildings and other
108 facilities which the department is authorized to erect, and
109 demolish and dispose of old buildings, when necessary for the
110 proper construction of new buildings. Any transaction which
111 involves state lands under the provisions of this paragraph shall
112 be done in a manner consistent with the provisions of Section
113 29-1-1.

114 (3) The department shall survey state-owned and
115 state-utilized buildings to establish an estimate of the costs of
116 architectural alterations, pursuant to the Americans with
117 Disabilities Act of 1990, 42 USCS Section 12111 et seq. The
118 department shall establish priorities for making the identified
119 architectural alterations and shall make known to the Legislative
120 Budget Office and to the Legislature the required cost to
121 effectuate such alterations. To meet the requirements of this
122 section, the department shall use standards of accessibility that
123 are at least as stringent as any applicable federal requirements
124 and may consider:

125 (a) Federal minimum guidelines and requirements issued
126 by the United States Architectural and Transportation Barriers
127 Compliance Board and standards issued by other federal agencies;

128 (b) The criteria contained in the American Standard
129 Specifications for Making Buildings Accessible and Usable by the
130 Physically Handicapped and any amendments thereto as approved by
131 the American Standards Association, Incorporated (ANSI Standards);

132 (c) Design manuals;

- 133 (d) Applicable federal guidelines;
134 (e) Current literature in the field;
135 (f) Applicable safety standards; and

136 (g) Any applicable environmental impact statements.

137 (4) The department shall observe the provisions of Section
138 31-5-23, in letting contracts and shall use Mississippi products,
139 including paint, varnish and lacquer which contain as vehicles
140 tung oil and either ester gum or modified resin (with rosin as the
141 principal base of constituents), and turpentine shall be used as a
142 solvent or thinner, where these products are available at a cost
143 not to exceed the cost of products grown, produced, prepared, made
144 or manufactured outside of the State of Mississippi.

145 (5) The department shall have authority to accept grants,
146 loans or donations from the United States Government or from any
147 other sources for the purpose of matching funds in carrying out
148 the provisions of this chapter.

149 (6) The department shall build a wheelchair ramp at the War
150 Memorial Building which complies with all applicable federal laws,
151 regulations and specifications regarding wheelchair ramps.

152 (7) The department shall review and preapprove all
153 architectural or engineering service contracts entered into by any
154 state agency, institution, commission, board or authority
155 regardless of the source of funding used to defray the costs of
156 the construction or renovation project for which services are to
157 be obtained. The provisions of this subsection * * * shall not
158 apply * * * to community college projects that are funded from
159 local funds or other nonstate sources which are outside the
160 Department of Finance and Administration's appropriations or as
161 directed by the Legislature. The provisions of this
162 subsection * * * shall not apply to any construction or design
163 projects of the State Military Department that are funded from
164 federal funds or other nonstate sources.

165 (8) The department shall have the authority to obtain

166 annually from the state institutions of higher learning
167 information on all building, construction and renovation projects
168 including duties, responsibilities and costs of any architect or
169 engineer hired by any such institutions.

170 (9) Contracts let or approved by the State Prison Emergency
171 Construction and Management Board when it exercises its emergency
172 powers to remove two thousand (2,000) inmates from county jails
173 are exempt from this section; however, this exemption does not
174 apply to contracts for the construction of private correctional
175 facilities and additional facilities at the South Mississippi
176 Correctional Institution and the Central Mississippi Correctional
177 Facility. This subsection shall stand repealed from and after
178 July 1, 1996.

179 SECTION 3. This act shall take effect and be in force from
180 and after July 1, 2000.