

By: Representative Warren

To: Public Property;
Appropriations

HOUSE BILL NO. 784
(As Sent to Governor)

1 AN ACT TO AMEND SECTIONS 27-104-7, 29-5-2 AND 31-11-3,
2 MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF REPEAL ON THE
3 PROVISIONS THAT AUTHORIZE THE DEPARTMENT OF FINANCE AND
4 ADMINISTRATION TO ENTER INTO CONTRACTS TO PROVIDE PARKING SPACES
5 FOR STATE EMPLOYEES WHO WORK IN THE WOOLFOLK BUILDING, THE CARROLL
6 GARTIN JUSTICE BUILDING OR THE WALTER SILLERS OFFICE BUILDING; AND
7 FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 27-104-7, Mississippi Code of 1972, is
10 amended as follows:

11 27-104-7. (1) There is hereby created within the Department
12 of Finance and Administration the Public Procurement Review Board,
13 which shall be composed of the Executive Director of the
14 Department of Finance and Administration, the head of the Office
15 of Budget and Policy Development and an employee of the Office of
16 General Services who is familiar with the purchasing laws of this
17 state. The Executive Director of the Department of Finance and
18 Administration shall be chairman and shall preside over the
19 meetings of the board. The board shall annually elect a vice
20 chairman, who shall serve in the absence of the chairman. No
21 business shall be transacted, including adoption of rules of
22 procedure, without the presence of a quorum of the board. Two (2)
23 members shall be a quorum. No action shall be valid unless
24 approved by the chairman and one (1) other of those members
25 present and voting, entered upon the minutes of the board and
26 signed by the chairman. The board shall meet on a monthly basis
27 and at any other time when notified by the chairman. Necessary
28 clerical and administrative support for the board shall be
29 provided by the Department of Finance and Administration. Minutes

30 shall be kept of the proceedings of each meeting, copies of which
31 shall be filed on a monthly basis with the Legislative Budget
32 Office.

33 (2) The Public Procurement Review Board shall have the
34 following powers and responsibilities:

35 (a) Approve all purchasing regulations governing the
36 purchase or lease by any agency, as defined in Section 31-7-1, of
37 commodities and equipment, except computer equipment acquired
38 pursuant to Sections 25-53-1 through 25-53-29;

39 (b) Adopt regulations governing the approval of
40 contracts let for the construction and maintenance of state
41 buildings and other state facilities;

42 (c) Adopt regulations governing any lease or rental
43 agreement by any state agency or department, including any state
44 agency financed entirely by federal funds, for space outside the
45 buildings under the jurisdiction of the Department of Finance and
46 Administration;

47 (d) Adopt, in its discretion, regulations to set aside
48 at least five percent (5%) of anticipated annual expenditures for
49 the purchase of commodities from minority businesses; however, all
50 such set-aside purchases shall comply with all purchasing
51 regulations promulgated by the department and shall be subject to
52 all bid requirements. Set-aside purchases for which competitive
53 bids are required shall be made from the lowest and best minority
54 business bidder; however, if no minority bid is available or if
55 the minority bid is more than two percent (2%) higher than the
56 lowest bid, then bids shall be accepted and awarded to the lowest
57 and best bidder. Provided, however, that the provisions herein
58 shall not be construed to prohibit the rejection of a bid when
59 only one (1) bid is received. Such rejection shall be placed in
60 the minutes. For the purposes of this paragraph, the term
61 "minority business" means a business which is owned by a person

62 who is a citizen or lawful permanent resident of the United States
63 and who is:

64 (i) Black: having origins in any of the black
65 racial groups of Africa.

66 (ii) Hispanic: of Mexican, Puerto Rican, Cuban,
67 Central or South American, or other Spanish or Portuguese culture
68 or origin regardless of race.

69 (iii) Asian American: having origins in any of
70 the original peoples of the Far East, Southeast Asia, the Indian
71 subcontinent, or the Pacific Islands.

72 (iv) American Indian or Alaskan Native: having
73 origins in any of the original peoples of North America.

74 (v) Female;

75 (e) In consultation with and approval by the Chairmen
76 of the Senate and House Public Property Committees, approve
77 leases, for a term not to exceed eighteen (18) months, entered
78 into by state agencies for the purpose of providing parking
79 arrangements for state employees who work in the Woolfolk
80 Building, the Carroll Gartin Justice Building or the Walter
81 Sillers Office Building. The provisions of this paragraph (e)
82 shall stand repealed on July 1, 2010.

83 (3) No member of the Public Procurement Review Board shall
84 use his official authority or influence to coerce, by threat of
85 discharge from employment, or otherwise, the purchase of
86 commodities or the contracting for public construction under this
87 chapter.

88 **SECTION 2.** Section 29-5-2, Mississippi Code of 1972, is
89 amended as follows:

90 29-5-2. The duties of the Department of Finance and
91 Administration shall be as follows:

92 (a) (i) To exercise general supervision and care over
93 and keep in good condition the following state property located in
94 the City of Jackson: the New State Capitol Building, the Woolfolk

95 State Office Building, the Carroll Gartin Justice Building, the
96 Walter Sillers Office Building, the War Veterans' Memorial
97 Building, the Charlotte Capers Building, the William F. Winter
98 Archives and History Building, the Ike Sanford Veterans Affairs
99 Building, the Old State Capitol Building, the Governor's Mansion,
100 the Heber Ladner Building, the Burroughs Building, the Robert E.
101 Lee Office Building, the Robert E. Lee Parking Garage, the Manship
102 House Restoration and Visitor Center, the State Records Center,
103 the Robert G. Clark, Jr. Building, and all other properties
104 acquired in the same transaction at the time of the purchase of
105 the Robert E. Lee Hotel property from the First Federal Savings
106 and Loan Association of Jackson, Mississippi, which properties are
107 more particularly described in a warranty deed heretofore executed
108 and delivered on April 22, 1969, and filed for record in the
109 Office of the Chancery Clerk of the First Judicial District of
110 Hinds County, Mississippi, located in Jackson, Mississippi, on
111 April 25, 1969, at 9:00 a.m., and recorded in Deed Book No. 1822,
112 page 136 et seq., and the Central High Building and 101 Capitol
113 Centre.

114 (ii) To exercise general supervision and care over
115 and keep in good condition the Dr. Eldon Langston Bolton Building
116 located in Biloxi, Mississippi.

117 (iii) To exercise general supervision and care
118 over and keep in good condition the State Service Center, located
119 at the intersection of State Highway 49 and John Merl Tatum
120 Industrial Drive in Hattiesburg, Mississippi.

121 (b) To assign suitable office space for the various
122 state departments, officers and employees who are provided with an
123 office in any of the buildings under the jurisdiction or control
124 of the Department of Finance and Administration. However, the
125 assignment of space in the New Capitol Building shall be
126 designated by duly passed resolution of the combined Senate Rules
127 Committee and the House Management Committee, meeting as a joint

128 committee, approved by the Lieutenant Governor and Speaker of the
129 House of Representatives. A majority vote of the members of the
130 Senate Rules Committee and a majority vote of the members of the
131 House Management Committee shall be required on all actions taken,
132 resolutions or reports adopted, and all other matters considered
133 by the full combined committee on occasions when the Senate Rules
134 Committee and the House Management Committee shall meet as a full
135 combined committee.

136 (c) To approve or disapprove with the concurrence of
137 the Public Procurement Review Board, any lease or rental
138 agreements by any state agency or department, including any state
139 agency financed entirely by federal and special funds, for space
140 outside the buildings under the jurisdiction of the Department of
141 Finance and Administration, including space necessary for parking
142 to be used by state employees who work in the Woolfolk Building,
143 the Carroll Gartin Justice Building or the Walter Sillers Office
144 Building. In no event shall any employee, officer, department,
145 federally funded agency or bureau of the state be authorized to
146 enter a lease or rental agreement without prior approval of the
147 Department of Finance and Administration and the Public
148 Procurement Review Board.

149 The Department of Finance and Administration is authorized to
150 use architects, engineers, building inspectors and other personnel
151 for the purpose of making inspections as may be deemed necessary
152 in carrying out its duties and maintaining the facilities.

153 The provisions of this paragraph (c) shall stand repealed on
154 July 1, 2010.

155 (d) To acquire by lease, lease-purchase agreement, or
156 otherwise, as provided in Section 27-104-107, and to assign
157 through the Office of General Services, by lease or sublease
158 agreement from the office, and with the concurrence of the Public
159 Procurement Review Board, to any state agency or department,

160 including any state agency financed entirely by federal and
161 special funds, appropriate office space in the buildings acquired.

162 **SECTION 3.** Section 31-11-3, Mississippi Code of 1972, is
163 amended as follows:

164 31-11-3. (1) The Department of Finance and Administration,
165 for the purposes of carrying out the provisions of this chapter,
166 in addition to all other rights and powers granted by law, shall
167 have full power and authority to employ and compensate architects
168 or other employees necessary for the purpose of making
169 inspections, preparing plans and specifications, supervising the
170 erection of any buildings, and making any repairs or additions as
171 may be determined by the Department of Finance and Administration
172 to be necessary, pursuant to the rules and regulations of the
173 State Personnel Board. The department shall have entire control
174 and supervision of, and determine what, if any, buildings,
175 additions, repairs or improvements are to be made under the
176 provisions of this chapter, subject to the approval of the Public
177 Procurement Review Board.

178 (2) The department shall have full power to erect buildings,
179 make repairs, additions or improvements, and buy materials,
180 supplies and equipment for any of the institutions or departments
181 of the state subject to the approval of the Public Procurement
182 Review Board. In addition to other powers conferred, the
183 department shall have full power and authority as directed by the
184 Legislature, or when funds have been appropriated for its use for
185 these purposes, to:

186 (a) Build a state office building;

187 (b) Build suitable plants or buildings for the use and
188 housing of any state schools or institutions, including the
189 building of plants or buildings for new state schools or
190 institutions, as provided for by the Legislature;

191 (c) Provide state aid for the construction of school
192 buildings;

193 (d) Promote and develop the training of returned
194 veterans of the United States in all sorts of educational and
195 vocational learning to be supplied by the proper educational
196 institution of the State of Mississippi, and in so doing allocate
197 monies appropriated to it for these purposes to the Governor for
198 use by him in setting up, maintaining and operating an office and
199 employing a state director of on-the-job training for veterans and
200 the personnel necessary in carrying out Public Law No. 346 of the
201 United States;

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

204 (f) Build and equip additional buildings and wards at
205 the Boswell Retardation Center;

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

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

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

215 (j) Build and equip a gymnasium at Columbia Training
216 School;

217 (k) Approve or disapprove the expenditure of any money
218 appropriated by the Legislature when authorized by the bill making
219 the appropriation;

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

222 (m) Sell and convey state lands when authorized by the
223 Legislature, cause said lands to be properly surveyed and platted,
224 execute all deeds or other legal instruments, and do any and all
225 other things required to effectively carry out the purpose and

226 intent of the Legislature. Any transaction which involves state
227 lands under the provisions of this paragraph shall be done in a
228 manner consistent with the provisions of Section 29-1-1;

229 (n) Collect and receive from educational institutions
230 of the State of Mississippi monies required to be paid by these
231 institutions to the state in carrying out any veterans'
232 educational programs;

233 (o) Purchase lands for building sites, or as additions
234 to building sites, for the erection of buildings and other
235 facilities which the department is authorized to erect, and
236 demolish and dispose of old buildings, when necessary for the
237 proper construction of new buildings. Any transaction which
238 involves state lands under the provisions of this paragraph shall
239 be done in a manner consistent with the provisions of Section
240 29-1-1;

241 (p) Obtain business property insurance with a
242 deductible of not less than One Hundred Thousand Dollars
243 (\$100,000.00) on state-owned buildings under the management and
244 control of the department; and

245 (q) In consultation with and approval by the Chairmen
246 of the Public Property Committees of the Senate and the House of
247 Representatives, enter into contracts for the purpose of providing
248 parking spaces for state employees who work in the Woolfolk
249 Building, the Carroll Gartin Justice Building or the Walter
250 Sillers Office Building. The provisions of this paragraph (q)
251 shall stand repealed on July 1, 2010.

252 (3) The department shall survey state-owned and
253 state-utilized buildings to establish an estimate of the costs of
254 architectural alterations, pursuant to the Americans With
255 Disabilities Act of 1990, 42 USCS, Section 12111 et seq. The
256 department shall establish priorities for making the identified
257 architectural alterations and shall make known to the Legislative
258 Budget Office and to the Legislature the required cost to

259 effectuate such alterations. To meet the requirements of this
260 section, the department shall use standards of accessibility that
261 are at least as stringent as any applicable federal requirements
262 and may consider:

263 (a) Federal minimum guidelines and requirements issued
264 by the United States Architectural and Transportation Barriers
265 Compliance Board and standards issued by other federal agencies;

266 (b) The criteria contained in the American Standard
267 Specifications for Making Buildings Accessible and Usable by the
268 Physically Handicapped and any amendments thereto as approved by
269 the American Standards Association, Incorporated (ANSI Standards);

270 (c) Design manuals;

271 (d) Applicable federal guidelines;

272 (e) Current literature in the field;

273 (f) Applicable safety standards; and

274 (g) Any applicable environmental impact statements.

275 (4) The department shall observe the provisions of Section
276 31-5-23, in letting contracts and shall use Mississippi products,
277 including paint, varnish and lacquer which contain as vehicles
278 tung oil and either ester gum or modified resin (with rosin as the
279 principal base of constituents), and turpentine shall be used as a
280 solvent or thinner, where these products are available at a cost
281 not to exceed the cost of products grown, produced, prepared, made
282 or manufactured outside of the State of Mississippi.

283 (5) The department shall have authority to accept grants,
284 loans or donations from the United States government or from any
285 other sources for the purpose of matching funds in carrying out
286 the provisions of this chapter.

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

290 (7) The department shall review and preapprove all
291 architectural or engineering service contracts entered into by any

292 state agency, institution, commission, board or authority
293 regardless of the source of funding used to defray the costs of
294 the construction or renovation project for which services are to
295 be obtained. The provisions of this subsection (7) shall not
296 apply to any architectural or engineering contract paid for by
297 self-generated funds of any of the state institutions of higher
298 learning, nor shall they apply to community college projects that
299 are funded from local funds or other nonstate sources which are
300 outside the Department of Finance and Administration's
301 appropriations or as directed by the Legislature. The provisions
302 of this subsection (7) shall not apply to any construction or
303 design projects of the State Military Department that are funded
304 from federal funds or other nonstate sources.

305 (8) The department shall have the authority to obtain
306 annually from the state institutions of higher learning
307 information on all building, construction and renovation projects
308 including duties, responsibilities and costs of any architect or
309 engineer hired by any such institutions.

310 (9) (a) As an alternative to other methods of awarding
311 contracts as prescribed by law, the department may use the
312 design-build method or the design-build bridging method of
313 contracting for new capital construction projects to be used as a
314 pilot program for the following projects:

315 (i) Projects for the Mississippi Development
316 Authority pursuant to agreements between both governmental
317 entities;

318 (ii) Any project with an estimated cost of not
319 more than Ten Million Dollars (\$10,000,000.00), not to exceed two
320 (2) projects per fiscal year; and

321 (iii) Any project which has an estimated cost of
322 more than Fifty Million Dollars (\$50,000,000.00), not to exceed
323 one (1) project per fiscal year.

324 (b) As used in this subsection:

325 (i) "Design-build method of contracting" means a
326 contract that combines the design and construction phases of a
327 project into a single contract and the contractor is required to
328 satisfactorily perform, at a minimum, both the design and
329 construction of the project.

330 (ii) "Design-build bridging method of contracting"
331 means a contract that requires design through the design
332 development phase by a professional designer, after which a
333 request for qualifications for design completion and construction
334 is required for the completion of the project from a single
335 contractor that combines the balance of design and construction
336 phases of a project into a single contract. The contractor is
337 required to satisfactorily perform, at a minimum, both the balance
338 of design and construction of the project.

339 (c) The department shall establish detailed criteria
340 for the selection of the successful design-build/design-build
341 bridging contractor in each request for design-build/design-build
342 bridging proposals. The request for qualifications evaluation of
343 the selection committee is a public record and shall be maintained
344 for a minimum of three (3) years after project completion.

345 (d) The department shall maintain detailed records on
346 projects separate and apart from its regular record keeping. The
347 department shall file a report to the Legislature evaluating the
348 design-build/design-build bridging method of contracting by
349 comparing it to the low-bid method of contracting. At a minimum,
350 the report must include:

351 (i) The management goals and objectives for the
352 design-build/design-build bridging system of management;

353 (ii) A complete description of the components of
354 the design-build/design-build bridging management system,
355 including a description of the system the department put into
356 place on all projects managed under the system to insure that it
357 has the complete information on building segment costs and to

358 insure proper analysis of any proposal the department receives
359 from a contractor;

360 (iii) The accountability systems the department
361 established to monitor any design-build/design-build bridging
362 project's compliance with specific goals and objectives for the
363 project;

364 (iv) The outcome of any project or any interim
365 report on an ongoing project let under a design-build/design-build
366 bridging management system showing compliance with the goals,
367 objectives, policies and procedures the department set for the
368 project; and

369 (v) The method used by the department to select
370 projects to be let under the design-build/design-build bridging
371 system of management and all other systems, policies and
372 procedures that the department considered as necessary components
373 to a design-build/design-build bridging management system.

374 (e) All contracts let under the provisions of this
375 subsection shall be subject to oversight and review by the State
376 Auditor.

377 **SECTION 4.** This act shall take effect and be in force from
378 and after July 1, 2006.