

By: Representative Weathersby

To: Public Property;  
Appropriations

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1440

1 AN ACT TO CREATE A NEW SECTION TO BE CODIFIED AS SECTION  
2 31-11-33, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE  
3 CONSTRUCTION OF ANY NEW PUBLIC FACILITY SHALL COMPLY WITH CERTAIN  
4 BUILDING CODE STANDARDS AS ADOPTED BY THE DEPARTMENT OF FINANCE  
5 AND ADMINISTRATION, BUREAU OF BUILDINGS, GROUNDS AND REAL PROPERTY  
6 MANAGEMENT; TO AUTHORIZE THE DEPARTMENT OF FINANCE AND  
7 ADMINISTRATION, BUREAU OF BUILDINGS, GROUNDS AND REAL PROPERTY  
8 MANAGEMENT TO REGULATE CERTAIN BUILDING FEATURES; TO AMEND SECTION  
9 31-11-3, MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR RELATED  
10 PURPOSES.

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

12 **SECTION 1.** The following shall be codified as Section

13 31-11-33, Mississippi Code of 1972:

14 31-11-33. (1) For purposes of this section the following  
15 terms shall have the meanings hereinafter ascribed:

16 (a) "Department" means the Department of Finance and  
17 Administration, Bureau of Buildings, Grounds and Real Property  
18 Management.

19 (b) "Public facility" means any building or other  
20 facility owned by the State of Mississippi, or by any agency,  
21 department or political subdivision of the State of Mississippi,  
22 that is occupied, used or under the control of the State of  
23 Mississippi, or any agency or department of the State of  
24 Mississippi, or any junior college district of the State of  
25 Mississippi, or the Board of Trustees of State Institutions of  
26 Higher Learning of the State of Mississippi, or any institution  
27 under the jurisdiction of the Board of Trustees of State  
28 Institutions of Higher Learning of the State of Mississippi.

29 (2) Any public facility newly constructed from and after  
30 July 1, 2006, shall comply with and be built according to  
31 specifications not less stringent than those required by the

32 International Code Council and such other standards as adopted by  
33 the department that provide guidelines for plumbing, electrical,  
34 gas, sanitary and other physical components of new building  
35 construction.

36 (3) Upon the awarding of a contract for a new public  
37 facility, the contractor shall prepare drawings and specifications  
38 in conformity with the code requirements in effect at the time of  
39 agreement or, if the code requirements at the time of the  
40 agreement are amended, then the drawings and specifications shall be  
41 prepared according to the more stringent standards.

42 (4) The department may regulate the height, number of  
43 stories and size of public facilities, the percentage of the lot  
44 that may be occupied, courts and other open spaces, the location  
45 and use of public facilities.

46 **SECTION 2.** Section 31-11-3, Mississippi Code of 1972, is  
47 amended as follows:

48 31-11-3. (1) The Department of Finance and Administration,  
49 for the purposes of carrying out the provisions of this chapter,  
50 in addition to all other rights and powers granted by law, shall  
51 have full power and authority to employ and compensate architects  
52 or other employees necessary for the purpose of making  
53 inspections, preparing plans and specifications, supervising the  
54 erection of any buildings, and making any repairs or additions as  
55 may be determined by the Department of Finance and Administration  
56 to be necessary, pursuant to the rules and regulations of the  
57 State Personnel Board. The department shall have entire control  
58 and supervision of, and determine what, if any, buildings,  
59 additions, repairs or improvements are to be made under the  
60 provisions of this chapter, subject to the approval of the Public  
61 Procurement Review Board.

62 (2) The department shall have full power to erect buildings,  
63 make repairs, additions or improvements, and buy materials,  
64 supplies and equipment for any of the institutions or departments

65 of the state subject to the approval of the Public Procurement  
66 Review Board. In addition to other powers conferred, the  
67 department shall have full power and authority as directed by the  
68 Legislature, or when funds have been appropriated for its use for  
69 these purposes, to:

70 (a) Build a state office building;

71 (b) Build suitable plants or buildings for the use and  
72 housing of any state schools or institutions, including the  
73 building of plants or buildings for new state schools or  
74 institutions, as provided for by the Legislature;

75 (c) Provide state aid for the construction of school  
76 buildings;

77 (d) Promote and develop the training of returned  
78 veterans of the United States in all sorts of educational and  
79 vocational learning to be supplied by the proper educational  
80 institution of the State of Mississippi, and in so doing allocate  
81 monies appropriated to it for these purposes to the Governor for  
82 use by him in setting up, maintaining and operating an office and  
83 employing a state director of on-the-job training for veterans and  
84 the personnel necessary in carrying out Public Law No. 346 of the  
85 United States;

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

88 (f) Build and equip additional buildings and wards at  
89 the Boswell Retardation Center;

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

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

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

99                   (j) Build and equip a gymnasium at Columbia Training  
100 School;

101                   (k) Approve or disapprove the expenditure of any money  
102 appropriated by the Legislature when authorized by the bill making  
103 the appropriation;

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

106                   (m) Sell and convey state lands when authorized by the  
107 Legislature, cause said lands to be properly surveyed and platted,  
108 execute all deeds or other legal instruments, and do any and all  
109 other things required to effectively carry out the purpose and  
110 intent of the Legislature. Any transaction which involves state  
111 lands under the provisions of this paragraph shall be done in a  
112 manner consistent with the provisions of Section 29-1-1;

113                   (n) Collect and receive from educational institutions  
114 of the State of Mississippi monies required to be paid by these  
115 institutions to the state in carrying out any veterans'  
116 educational programs;

117                   (o) Purchase lands for building sites, or as additions  
118 to building sites, for the erection of buildings and other  
119 facilities which the department is authorized to erect, and  
120 demolish and dispose of old buildings, when necessary for the  
121 proper construction of new buildings. Any transaction which  
122 involves state lands under the provisions of this paragraph shall  
123 be done in a manner consistent with the provisions of Section  
124 29-1-1;

125                   (p) Obtain business property insurance with a  
126 deductible of not less than One Hundred Thousand Dollars  
127 (\$100,000.00) on state-owned buildings under the management and  
128 control of the department; and

129           (q) In consultation with and approval by the Chairmen  
130 of the Public Property Committees of the Senate and the House of  
131 Representatives, enter into contracts for the purpose of providing  
132 parking spaces for state employees who work in the Woolfolk  
133 Building, the Carroll Gartin Justice Building or the Walter  
134 Sillers Office Building. The provisions of this paragraph (q)  
135 shall stand repealed on July 1, 2006.

136           (3) The department shall survey state-owned and  
137 state-utilized buildings to establish an estimate of the costs of  
138 architectural alterations, pursuant to the Americans With  
139 Disabilities Act of 1990, 42 USCS, Section 12111 et seq. The  
140 department shall establish priorities for making the identified  
141 architectural alterations and shall make known to the Legislative  
142 Budget Office and to the Legislature the required cost to  
143 effectuate such alterations. To meet the requirements of this  
144 section, the department shall use standards of accessibility that  
145 are at least as stringent as any applicable federal requirements  
146 and may consider:

147           (a) Federal minimum guidelines and requirements issued  
148 by the United States Architectural and Transportation Barriers  
149 Compliance Board and standards issued by other federal agencies;

150           (b) The criteria contained in the American Standard  
151 Specifications for Making Buildings Accessible and Usable by the  
152 Physically Handicapped and any amendments thereto as approved by  
153 the American Standards Association, Incorporated (ANSI Standards);

154           (c) Design manuals;

155           (d) Applicable federal guidelines;

156           (e) Current literature in the field;

157           (f) Applicable safety standards; and

158           (g) Any applicable environmental impact statements.

159           (4) The department shall observe the provisions of Section  
160 31-5-23, in letting contracts and shall use Mississippi products,  
161 including paint, varnish and lacquer which contain as vehicles

162 tung oil and either ester gum or modified resin (with rosin as the  
163 principal base of constituents), and turpentine shall be used as a  
164 solvent or thinner, where these products are available at a cost  
165 not to exceed the cost of products grown, produced, prepared, made  
166 or manufactured outside of the State of Mississippi.

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

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

174 (7) The department shall review and preapprove all  
175 architectural or engineering service contracts entered into by any  
176 state agency, institution, commission, board or authority  
177 regardless of the source of funding used to defray the costs of  
178 the construction or renovation project for which services are to  
179 be obtained. The provisions of this subsection (7) shall not  
180 apply to any architectural or engineering contract paid for by  
181 self-generated funds of any of the state institutions of higher  
182 learning, nor shall they apply to community college projects that  
183 are funded from local funds or other nonstate sources which are  
184 outside the Department of Finance and Administration's  
185 appropriations or as directed by the Legislature. The provisions  
186 of this subsection (7) shall not apply to any construction or  
187 design projects of the State Military Department that are funded  
188 from federal funds or other nonstate sources.

189 (8) The department shall have the authority to obtain  
190 annually from the state institutions of higher learning  
191 information on all building, construction and renovation projects  
192 including duties, responsibilities and costs of any architect or  
193 engineer hired by any such institutions.

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

199 (i) Projects for the Mississippi Development  
200 Authority pursuant to agreements between both governmental  
201 entities;

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

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

208 (b) As used in this subsection:

209 (i) "Design-build method of contracting" means a  
210 contract that combines the design and construction phases of a  
211 project into a single contract and the contractor is required to  
212 satisfactorily perform, at a minimum, both the design and  
213 construction of the project.

214 (ii) "Design-build bridging method of contracting"  
215 means a contract that requires design through the design  
216 development phase by a professional designer, after which a  
217 request for qualifications for design completion and construction  
218 is required for the completion of the project from a single  
219 contractor that combines the balance of design and construction  
220 phases of a project into a single contract. The contractor is  
221 required to satisfactorily perform, at a minimum, both the balance  
222 of design and construction of the project.

223 (c) The department shall establish detailed criteria  
224 for the selection of the successful design-build/design-build  
225 bridging contractor in each request for design-build/design-build  
226 bridging proposals. The request for qualifications evaluation of

227 the selection committee is a public record and shall be maintained  
228 for a minimum of three (3) years after project completion.

229 (d) The department shall maintain detailed records on  
230 projects separate and apart from its regular record keeping. The  
231 department shall file a report to the Legislature evaluating the  
232 design-build/design-build bridging method of contracting by  
233 comparing it to the low-bid method of contracting. At a minimum,  
234 the report must include:

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

237 (ii) A complete description of the components of  
238 the design-build/design-build bridging management system,  
239 including a description of the system the department put into  
240 place on all projects managed under the system to insure that it  
241 has the complete information on building segment costs and to  
242 insure proper analysis of any proposal the department receives  
243 from a contractor;

244 (iii) The accountability systems the department  
245 established to monitor any design-build/design-build bridging  
246 project's compliance with specific goals and objectives for the  
247 project;

248 (iv) The outcome of any project or any interim  
249 report on an ongoing project let under a design-build/design-build  
250 bridging management system showing compliance with the goals,  
251 objectives, policies and procedures the department set for the  
252 project; and

253 (v) The method used by the department to select  
254 projects to be let under the design-build/design-build bridging  
255 system of management and all other systems, policies and  
256 procedures that the department considered as necessary components  
257 to a design-build/design-build bridging management system.



258                   (e) All contracts let under the provisions of this  
259 subsection shall be subject to oversight and review by the State  
260 Auditor.

261                   (8) The department shall adopt and enforce building code  
262 standards for the new construction of public facilities in a  
263 manner consistent with the provisions of Section 31-11-33.

264                   **SECTION 3.** This act shall take effect and be in force from  
265 and after July 1, 2006.