

By: Representative Weathersby

To: Public Property;
Appropriations

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
9 SECTION 31-11-3, MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR
10 RELATED 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 Building Code 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. The provisions of this section shall not apply to
36 the repair or renovation of any public facility.

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

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

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

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

63 (2) The department shall have full power to erect buildings,
64 make repairs, additions or improvements, and buy materials,

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

71 (a) Build a state office building;

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

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

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

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

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

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

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

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

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

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

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

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

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

118 (o) Purchase lands for building sites, or as additions
119 to building sites, for the erection of buildings and other
120 facilities which the department is authorized to erect, and
121 demolish and dispose of old buildings, when necessary for the
122 proper construction of new buildings. Any transaction which
123 involves state lands under the provisions of this paragraph shall
124 be done in a manner consistent with the provisions of Section
125 29-1-1;

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

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

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

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

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

155 (c) Design manuals;

156 (d) Applicable federal guidelines;

157 (e) Current literature in the field;

158 (f) Applicable safety standards; and

159 (g) Any applicable environmental impact statements.

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

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

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

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

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

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

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

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

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

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

209 (b) As used in this subsection:

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

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

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

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

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

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

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

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

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

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

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

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

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