

By: Representative Weathersby

To: Public Property;
Appropriations

HOUSE BILL NO. 1440
(As Sent to Governor)

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 BUILDING, GROUNDS AND REAL PROPERTY
6 MANAGEMENT; TO AUTHORIZE THE DEPARTMENT OF FINANCE AND
7 ADMINISTRATION, BUREAU OF BUILDING, GROUNDS AND REAL PROPERTY
8 MANAGEMENT TO REGULATE CERTAIN BUILDING FEATURES; TO AMEND SECTION
9 31-11-3, MISSISSIPPI CODE OF 1972, AS AMENDED BY HOUSE BILL NO.
10 784, 2006 REGULAR SESSION, TO REMOVE THE AUTHORITY FOR THE
11 DEPARTMENT OF FINANCE AND ADMINISTRATION TO USE THE DESIGN-BUILD
12 METHOD OF CONTRACTING FOR CERTAIN CONSTRUCTION PROJECTS; TO
13 AUTHORIZE THE DEPARTMENT OF FINANCE AND ADMINISTRATION TO ALLOW
14 STATE INSTITUTIONS OF HIGHER LEARNING, COMMUNITY AND JUNIOR
15 COLLEGES, AND OTHER STATE AGENCIES TO MANAGE CONSTRUCTION PROJECTS
16 WITH A VALUE OF \$250,000.00 OR LESS PROVIDED THAT EACH AGENCY
17 MEETS DEPARTMENTALLY DEVELOPED CRITERIA AND MANAGEMENT
18 REQUIREMENT; TO REQUIRE THE DEPARTMENT OF FINANCE AND
19 ADMINISTRATION TO ADOPT BUILDING CODE STANDARDS FOR NEW
20 CONSTRUCTION OF PUBLIC FACILITIES; AND FOR RELATED PURPOSES.

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

22 **SECTION 1.** The following shall be codified as Section
23 31-11-33, Mississippi Code of 1972:

24 31-11-33. (1) For purposes of this section, the following
25 terms shall have the meanings hereinafter ascribed:

26 (a) "Department" means the Department of Finance and
27 Administration, Bureau of Building, Grounds and Real Property
28 Management.

29 (b) "Public facility" means any building or other
30 facility owned by the State of Mississippi, or by any agency,
31 department of the State of Mississippi, that is occupied, used or
32 under the control of the State of Mississippi, or any agency or
33 department of the State of Mississippi, or any junior college
34 district of the State of Mississippi, or the Board of Trustees of
35 State Institutions of Higher Learning of the State of Mississippi,
36 or any institution under the jurisdiction of the Board of Trustees

37 of State Institutions of Higher Learning of the State of
38 Mississippi.

39 (2) Any public facility newly constructed from and after
40 July 1, 2006, shall comply with and be built according to
41 specifications not less stringent than those required by the
42 International Code Council and such other standards as adopted by
43 the department that provide guidelines for plumbing, electrical,
44 gas, sanitary and other physical components of new building
45 construction.

46 (3) Upon the awarding of a design contract for a new public
47 facility, the architect/engineer shall prepare drawings and
48 specifications in conformity with the code requirements in effect
49 at the time of agreement or, if the code requirements at the time
50 of the agreement are amended, then the drawings and specifications
51 shall be prepared according to the more stringent standards.

52 (4) The department may regulate the height, number of
53 stories and size of public facilities, the percentage of the lot
54 that may be occupied, courts and other open spaces, and the
55 location and use of public facilities.

56 **SECTION 2.** Section 31-11-3, Mississippi Code of 1972, as
57 amended by House Bill 784, 2006 Regular Session, is amended as
58 follows:

59 31-11-3. (1) The Department of Finance and Administration,
60 for the purposes of carrying out the provisions of this chapter,
61 in addition to all other rights and powers granted by law, shall
62 have full power and authority to employ and compensate architects
63 or other employees necessary for the purpose of making
64 inspections, preparing plans and specifications, supervising the
65 erection of any buildings, and making any repairs or additions as
66 may be determined by the Department of Finance and Administration
67 to be necessary, pursuant to the rules and regulations of the
68 State Personnel Board. The department shall have entire control
69 and supervision of, and determine what, if any, buildings,

70 additions, repairs or improvements are to be made under the
71 provisions of this chapter, subject to the approval of the Public
72 Procurement Review Board.

73 (2) The department shall have full power to erect buildings,
74 make repairs, additions or improvements, and buy materials,
75 supplies and equipment for any of the institutions or departments
76 of the state subject to the approval of the Public Procurement
77 Review Board. In addition to other powers conferred, the
78 department shall have full power and authority as directed by the
79 Legislature, or when funds have been appropriated for its use for
80 these purposes, to:

81 (a) Build a state office building;

82 (b) Build suitable plants or buildings for the use and
83 housing of any state schools or institutions, including the
84 building of plants or buildings for new state schools or
85 institutions, as provided for by the Legislature;

86 (c) Provide state aid for the construction of school
87 buildings;

88 (d) Promote and develop the training of returned
89 veterans of the United States in all sorts of educational and
90 vocational learning to be supplied by the proper educational
91 institution of the State of Mississippi, and in so doing allocate
92 monies appropriated to it for these purposes to the Governor for
93 use by him in setting up, maintaining and operating an office and
94 employing a state director of on-the-job training for veterans and
95 the personnel necessary in carrying out Public Law No. 346 of the
96 United States;

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

99 (f) Build and equip additional buildings and wards at
100 the Boswell Retardation Center;

101 (g) Construct a sewage disposal and treatment plant at
102 the Mississippi State Hospital, at Whitfield and in so doing

103 acquire additional land as may be necessary, and to exercise the
104 right of eminent domain in the acquisition of this land;

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

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

110 (j) Build and equip a gymnasium at Columbia Training
111 School;

112 (k) Approve or disapprove the expenditure of any money
113 appropriated by the Legislature when authorized by the bill making
114 the appropriation;

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

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

124 (n) Collect and receive from educational institutions
125 of the State of Mississippi monies required to be paid by these
126 institutions to the state in carrying out any veterans'
127 educational programs;

128 (o) Purchase lands for building sites, or as additions
129 to building sites, for the erection of buildings and other
130 facilities which the department is authorized to erect, and
131 demolish and dispose of old buildings, when necessary for the
132 proper construction of new buildings. Any transaction which
133 involves state lands under the provisions of this paragraph shall
134 be done in a manner consistent with the provisions of Section
135 29-1-1;

136 (p) Obtain business property insurance with a
137 deductible of not less than One Hundred Thousand Dollars
138 (\$100,000.00) on state-owned buildings under the management and
139 control of the department; and

140 (q) In consultation with and approval by the Chairmen
141 of the Public Property Committees of the Senate and the House of
142 Representatives, enter into contracts for the purpose of providing
143 parking spaces for state employees who work in the Woolfolk
144 Building, the Carroll Gartin Justice Building or the Walter
145 Sillers Office Building. The provisions of this paragraph (q)
146 shall stand repealed on July 1, 2010.

147 (3) The department shall survey state-owned and
148 state-utilized buildings to establish an estimate of the costs of
149 architectural alterations, pursuant to the Americans With
150 Disabilities Act of 1990, 42 USCS, Section 12111 et seq. The
151 department shall establish priorities for making the identified
152 architectural alterations and shall make known to the Legislative
153 Budget Office and to the Legislature the required cost to
154 effectuate such alterations. To meet the requirements of this
155 section, the department shall use standards of accessibility that
156 are at least as stringent as any applicable federal requirements
157 and may consider:

158 (a) Federal minimum guidelines and requirements issued
159 by the United States Architectural and Transportation Barriers
160 Compliance Board and standards issued by other federal agencies;

161 (b) The criteria contained in the American Standard
162 Specifications for Making Buildings Accessible and Usable by the
163 Physically Handicapped and any amendments thereto as approved by
164 the American Standards Association, Incorporated (ANSI Standards);

165 (c) Design manuals;

166 (d) Applicable federal guidelines;

167 (e) Current literature in the field;

168 (f) Applicable safety standards; and

169 (g) Any applicable environmental impact statements.

170 (4) The department shall observe the provisions of Section
171 31-5-23, in letting contracts and shall use Mississippi products,
172 including paint, varnish and lacquer which contain as vehicles
173 tung oil and either ester gum or modified resin (with rosin as the
174 principal base of constituents), and turpentine shall be used as a
175 solvent or thinner, where these products are available at a cost
176 not to exceed the cost of products grown, produced, prepared, made
177 or manufactured outside of the State of Mississippi.

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

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

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

200 (8) The department shall have the authority to obtain
201 annually from the state institutions of higher learning

202 information on all building, construction and renovation projects
203 including duties, responsibilities and costs of any architect or
204 engineer hired by any such institutions.

205 (9) * * * When funding is provided through the Bureau of
206 Building, Grounds and Real Property Management, the department may
207 authorize the state institutions of higher learning, community and
208 junior colleges, and other state agencies to manage any
209 construction or renovation project with a value not exceeding Two
210 Hundred Fifty Thousand Dollars (\$250,000.00). The department
211 shall develop criteria for management of such projects that each
212 agency must follow in order to manage the projects. Only agencies
213 that the department deems capable of managing by the criteria may
214 manage these projects. Additionally, the department shall require
215 agencies managing these projects to do the following:

216 (a) Use standard departmentally approved contracts and
217 project management procedures; and

218 (b) Conduct projects on a reimbursable basis and
219 require documentation that the department deems appropriate for
220 payment of claims. Reimbursement shall be on a one-time basis at
221 completion and approval of project documentation submittals.

222 The department shall revoke the authority of any agency to
223 perform these project management functions if, in its opinion, an
224 agency has not followed the department's requirements for managing
225 projects. The authority granted to the department in this section
226 shall not apply to projects funded directly to the institutions of
227 higher learning, community and junior colleges, or other state
228 agencies through separate appropriation or other means.

229 (10) The department shall adopt building code standards for
230 the new construction of public facilities in a manner consistent
231 with the provisions of Section 31-11-33.

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