

Senate Amendments to House Bill No. 1440

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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 Building, 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 architect/engineer shall prepare drawings and

specifications in conformity with the code requirements in effect at the time of agreement or, if the code requirements at the time of the agreement are amended, then the drawings and specifications shall be prepared according to the more stringent standards.

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

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

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

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

- (a) Build a state office building;
- (b) Build suitable plants or buildings for the use and 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,

execute all deeds or other legal instruments, and do any and all other things required to effectively carry out the purpose and intent of the Legislature. Any transaction which involves state lands under the provisions of this paragraph shall be done in a manner consistent with the provisions of Section 29-1-1;

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

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

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

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

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

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

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

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

(c) Design manuals;

(d) Applicable federal guidelines;

(e) Current literature in the field;

(f) Applicable safety standards; and

(g) Any applicable environmental impact statements.

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

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

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

(7) The department shall review and preapprove all architectural or engineering service contracts entered into by any state agency, institution, commission, board or authority regardless of the source of funding used to defray the costs of

the construction or renovation project for which services are to be obtained. The provisions of this subsection (7) shall not apply to any architectural or engineering contract paid for by self-generated funds of any of the state institutions of higher learning, nor shall they apply to community college projects that are funded from local funds or other nonstate sources which are outside the Department of Finance and Administration's appropriations or as directed by the Legislature. The provisions of this subsection (7) shall not apply to any construction or design projects of the State Military Department that are funded from federal funds or other nonstate sources.

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

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

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

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

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

(b) As used in this subsection:

(i) "Design-build method of contracting" means a contract that combines the design and construction phases of a 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.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

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, TO CONFORM; AND FOR RELATED
10 PURPOSES.

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John O. Gilbert
Secretary of the Senate