

April 20, 2006

TO THE MISSISSIPPI HOUSE OF REPRESENTATIVES:

GOVERNOR'S VETO MESSAGE FOR HOUSE BILL 1015

I am returning House Bill Number 1015: "AN ACT TO AMEND SECTION 31-11-30, MISSISSIPPI CODE OF 1972, TO INCREASE TO \$2,000,000.00 OR MORE THE COST OF CAPITAL IMPROVEMENT PROJECTS THAT ARE REQUIRED TO BE FUNDED IN TWO PHASES AND TO DEFINE THE TERMS "EMERGENCY" AND "CRITICAL NEED" FOR THE PURPOSES OF EXEMPTION FROM THE REQUIREMENT OF FUNDING CAPITAL IMPROVEMENTS PROJECTS INVOLVING STATE BUILDINGS IN TWO PHASES; TO REQUIRE THAT CONSTRUCTION PROJECTS FUNDED WITH STATE BOND FUNDS OR OTHER STATE FUNDS AUTHORIZED FOR COMMUNITY AND JUNIOR COLLEGES BE ADMINISTERED THROUGH THE TWO-PHASE PLANNING PROCESS; TO AMEND SECTION 31-11-3, MISSISSIPPI CODE OF 1972, AS AMENDED BY HOUSE BILL NO. 784, 2006 REGULAR SESSION, TO AUTHORIZE THE DEPARTMENT OF FINANCE AND ADMINISTRATION TO ALLOW STATE INSTITUTIONS OF HIGHER LEARNING, COMMUNITY AND JUNIOR COLLEGES, AND OTHER STATE AGENCIES TO MANAGE CONSTRUCTION PROJECTS WITH A VALUE OF \$250,000.00 OR LESS PROVIDED THAT EACH AGENCY MEETS DEPARTMENTALLY DEVELOPED CRITERIA AND MANAGEMENT REQUIREMENTS; TO REMOVE AUTHORITY OF THE DEPARTMENT OF FINANCE AND ADMINISTRATION TO USE DESIGN-BUILD METHOD OF CONTRACTING FOR CERTAIN CONSTRUCTION PROJECTS; TO REQUIRE THE DEPARTMENT OF FINANCE AND ADMINISTRATION TO ADOPT BUILDING CODE STANDARDS FOR NEW CONSTRUCTION OF PUBLIC FACILITIES; TO CREATE A NEW SECTION TO PROHIBIT CONSTRUCTION PROGRAM MANAGERS AND/OR CONSTRUCTION MANAGERS AND BUILDING COMMISSIONING AGENTS AND THEIR SUBSIDIARIES OR PARENTS FROM BIDDING ON ANY PUBLIC CONSTRUCTION PROJECT FOR WHICH THEY ARE PROVIDING CONSTRUCTION PROGRAM MANAGEMENT SERVICES AND/OR CONSTRUCTION MANAGEMENT SERVICES OR BUILDING COMMISSIONING SERVICES; AND FOR RELATED PURPOSES" without my approval, and assign the following reasons for my veto.

After full consideration, I am vetoing House Bill 1015 which would impose new restrictions on construction management services. This legislation would limit compensation for construction management services on public projects to 3% of the project cost and would prohibit a construction manager from bidding on or otherwise participating in the construction, contracting or subcontracting on any public construction project for which the construction manager is already providing services. Particularly for smaller projects, of which smaller communities do many, these provisions would unnecessarily limit competition and impede free market activity.

Instead of an arbitrary limit, the fee for construction management services should be based on market competition and the size and scope of the project. A limit of 3% of the cost of the project would effectively eliminate the option of utilizing construction management services on smaller projects, many of which are funded by smaller cities and school districts.

While I appreciate the intent of the proposed prohibition on a construction manager providing other services, it is my understanding it is not unusual for a construction manager to submit a subcontracting bid when the bid is a last resort for the project sponsor. Allowing the construction manager to guarantee that a bid will be submitted for all subcontracting needs increases the likelihood that public construction projects are completed within budget and on schedule. Prohibiting this practice removes flexibility for public construction sponsors and could increase taxpayer costs.

I support other provisions in this legislation which would improve the public building process. House Bill 1015 would have changed current law which requires the Legislature to fund in two phases any project which costs more than \$1 million. This is an unnecessary hurdle for smaller projects and I support increasing the minimum threshold requirement. I also support the provision in House Bill 1015 which would have allowed the Department of Finance and Administration to authorize other state agencies to manage construction and renovation projects which do not exceed \$250,000 in cost. I encourage the Legislature to revisit these two provisions in the next legislative session.

I urge the members to sustain the veto and reject House Bill 1015.

Respectfully Submitted,

Haley Barbour
Governor