

By: Representatives Moss, Bailey, Clarke,
Dedeaux, Hudson, Robinson (63rd), Rogers
(61st)

To: Public Property; Ways
and Means

HOUSE BILL NO. 1330
(As Passed the House)

1 AN ACT TO AMEND SECTION 31-11-30, MISSISSIPPI CODE OF 1972,
2 TO DEFINE THE TERMS "EMERGENCY" AND "CRITICAL NEED" FOR THE
3 PURPOSES OF EXEMPTION FROM THE REQUIREMENT OF FUNDING CAPITAL
4 IMPROVEMENTS PROJECTS INVOLVING STATE BUILDINGS IN TWO PHASES; TO
5 REQUIRE THAT CONSTRUCTION PROJECTS FUNDED WITH STATE BOND FUNDS OR
6 OTHER STATE FUNDS AUTHORIZED FOR COMMUNITY AND JUNIOR COLLEGES BE
7 ADMINISTERED THROUGH THE TWO-PHASE PLANNING PROCESS; TO CREATE A
8 NEW SECTION TO PROHIBIT CONSTRUCTION PROGRAM MANAGERS AND BUILDING
9 COMMISSIONING AGENTS AND THEIR SUBSIDIARIES OR PARENTS FROM
10 BIDDING ON ANY PUBLIC CONSTRUCTION PROJECT FOR WHICH THEY ARE
11 PROVIDING CONSTRUCTION PROGRAM MANAGEMENT SERVICES OR BUILDING
12 COMMISSIONING SERVICES; AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** Section 31-11-30, Mississippi Code of 1972, is
15 amended as follows:

16 31-11-30. (1) Every capital improvements project for new
17 facilities, costing Two Million Dollars (\$2,000,000.00) or more,
18 which is developed to repair, renovate, construct, remodel, add to
19 or improve a state-owned public building shall be funded by the
20 Legislature in two (2) phases. The two-phase funding requirement
21 shall not apply to capital improvements projects for a state-owned
22 port or where the Legislature finds that an emergency or critical
23 need must be met or a court order complied with. The two (2)
24 phases shall not be funded in the same regular session of the
25 Legislature. Each phase shall be funded in a separate session of
26 the Legislature. Phase 1 shall be a preplanned capital
27 improvements project budget projection for the project and shall
28 be funded first. Phase 2 shall be the actual repair, renovation,
29 construction, remodeling, addition to or improvement of the
30 state-owned public building and the acquisition of furniture and
31 equipment for the capital improvements project and shall be funded
32 second.

33 (2) For the purposes of this section:

34 (a) "Preplanned" or "preplanning" means the preliminary
35 planning that establishes the program, scope, design and budget
36 for a capital improvements project.

37 (b) "Emergency" has the meaning as defined in Section
38 31-7-1.

39 (c) "Critical need" means necessary to meet
40 accreditation standards or necessary to respond to failures in
41 planning.

42 (3) Every state agency that plans to repair, renovate,
43 construct, remodel, add to or improve a state-owned public
44 building shall submit a preplanned capital improvements project
45 budget projection to the Bureau of Building, Grounds and Real
46 Property Management for evaluation. The bureau shall assess the
47 need for all preplanned projects submitted and shall compile a
48 report on its findings. Any capital improvements project for new
49 facilities costing less than Two Million Dollars (\$2,000,000.00)
50 shall not be required to be preplanned.

51 (4) Upon the completion of any preplanning for a capital
52 improvements project, if such preplanning is funded with
53 self-generated funds by a state agency, the plan shall be
54 submitted to the bureau for evaluation.

55 (5) This section shall not apply to capital improvements
56 projects authorized by the Legislature before the 2001 Regular
57 Session of the Legislature.

58 (6) This section shall apply to any community or junior
59 college project funded in whole or in part by either state bonds
60 or funds appropriated for that construction by the Legislature.

61 **SECTION 2.** (1) For the purposes of this section:

62 (a) "Building commissioning agent" means a person or
63 entity who renders building commissioning services.

64 (b) "Building commissioning services" include any
65 services rendered by an independent contractor to the state or a

66 local governing authority associated with the construction of
67 buildings that are intended to assist in the state or local
68 governing authority in reducing construction costs or enhancing
69 the long-term value of the construction project.

70 (c) "Construction program management services and/or
71 construction management services" means a set of management and
72 technical services rendered by a person or firm to a public sector
73 building owner during the predesign, design, construction or
74 post-construction phases of new construction, demolition,
75 alteration, repair or renovation projects. These services shall
76 include any one or more of the following: project planning,
77 budgeting, scheduling, coordination, design management,
78 construction administration or facility occupancy actions, but
79 shall not include any component of the actual construction work.
80 The term shall not include general contractors who are engaged to
81 actually perform the construction work. The term also shall not
82 include services customarily performed by licensed architects or
83 registered engineers.

84 (d) "Construction program manager and/or construction
85 manager" means a person or entity who performs construction
86 program management services and/or construction management
87 services.

88 (e) "Public construction project" means any project for
89 the construction of buildings for the state or for any local
90 governing authority of the state.

91 (2) No construction program manager and/or construction
92 manager, or any subsidiary owned in whole or in part by the
93 construction program manager and/or construction manager, or any
94 parent corporation or firm of the construction program manager
95 and/or construction manager, shall be eligible to bid or otherwise
96 participate in the construction, contracting or subcontracting on
97 any public construction project or part thereof for which the
98 construction program manager and/or construction manager has been

99 hired to perform construction program management services and/or
100 construction management services. Any contract for public
101 construction that violates this provision shall be void against
102 the public policy of the state.

103 (3) No building commissioning agent, or any subsidiary owned
104 in whole or in part by the building commissioning agent, or any
105 parent corporation or firm of the building commissioning agent,
106 shall be eligible to bid or otherwise participate in the
107 construction, contracting or subcontracting on any public
108 construction project or part thereof for which the building
109 commissioning agent has been hired to perform construction
110 building commissioning services. Any contract for public
111 construction that violates this provision shall be void against
112 the public policy of the state.

113 **SECTION 3.** This act shall take effect and be in force from
114 and after July 1, 2007.