

By: Senator(s) White, Flowers

To: Public Property;  
AppropriationsCOMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 2564

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

32 (2) For the purposes of this section:

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

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

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

41           (3) Every state agency that plans to repair, renovate,  
42 construct, remodel, add to or improve a state-owned public  
43 building shall submit a preplanned capital improvements project  
44 budget projection to the Bureau of Building, Grounds and Real  
45 Property Management for evaluation. The bureau shall assess the  
46 need for all preplanned projects submitted and shall compile a  
47 report on its findings. Any capital improvements project costing  
48 less than One Million Dollars (\$1,000,000.00) shall not be  
49 required to be preplanned.

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

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

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

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

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

63           (b) "Building commissioning services" include any  
64 services rendered by an independent contractor to the state or a  
65 local governing authority associated with the construction of

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

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

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

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

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

99 construction management services. \* \* \* Any contract for public  
100 construction that violates this provision shall be void against  
101 the public policy of the state.

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

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