

By: Representatives Weathersby, Rogers
(61st)

To: Public Property

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 679

1 AN ACT TO AUTHORIZE THE DEPARTMENT OF FINANCE AND
2 ADMINISTRATION (DFA), ACTING ON BEHALF OF THE DEPARTMENT OF PUBLIC
3 SAFETY, TO ENTER INTO AN AGREEMENT TO LEASE ALL OR ANY PORTION OF
4 CERTAIN STATE-OWNED REAL PROPERTY IDENTIFIED AS THE MISSISSIPPI
5 DEPARTMENT OF PUBLIC SAFETY HIGHWAY PATROL HEADQUARTERS FACILITY
6 IN JACKSON, HINDS COUNTY, MISSISSIPPI, TO AN ENTITY SELECTED IN
7 THE NEGOTIATION PROCESS BY DFA FOR PURPOSES OF REDEVELOPMENT AND
8 FOR THE CONSTRUCTION OF A NEW MISSISSIPPI DEPARTMENT OF PUBLIC
9 SAFETY HIGHWAY PATROL HEADQUARTERS FACILITY IN RANKIN COUNTY,
10 MISSISSIPPI; TO REQUIRE DFA TO CONDUCT A NATIONAL ADVERTISING
11 CAMPAIGN TO SOLICIT REQUESTS FOR PROPOSALS, SUBJECT TO THE
12 AVAILABILITY OF FUNDS, AND TO ESTABLISH A DEADLINE FOR THE RECEIPT
13 OF SUBMITTED PROPOSALS; TO REQUIRE PROPOSALS TO BE SUBMITTED ON
14 FORMS FURNISHED BY THE STATE BOND COMMISSION; TO REQUIRE DFA AND
15 THE STATE BOND COMMISSION TO CONDUCT A PREPROPOSAL CONFERENCE; TO
16 ESTABLISH THE MANNER FOR WHICH PROPOSALS MUST BE SUBMITTED AND
17 COMPONENTS REQUIRED TO BE INCLUDED IN THE PROPOSALS; TO PRESCRIBE
18 THE MANNER OF REVIEW FOR SUBMITTED PROPOSALS; TO REQUIRE DFA AND
19 THE STATE BOND COMMISSION TO REVIEW AND CONSIDER ALL PROPOSALS; TO
20 REQUIRE THAT CERTAIN PROCEDURES ARE TO BE FOLLOWED IN THE
21 EVALUATION PROCESS; TO REQUIRE DFA AND THE STATE BOND COMMISSION
22 TO EVALUATE AND RANK THE PROPOSALS AND MAKE RECOMMENDATIONS BEFORE
23 ENTERING INTO A REDEVELOPMENT AND CONSTRUCTION AGREEMENT WITH A
24 CERTAIN PROPOSER, TO REQUIRE DFA AND THE STATE BOND COMMISSION TO
25 SELECT ONE OR MORE PROPOSALS AND TO ENTER INTO NEGOTIATIONS WITH
26 THE PROPOSERS OF THOSE PROPOSALS FOR THE LEASE AND REDEVELOPMENT
27 OF THE PROPERTY; TO REQUIRE THAT CERTAIN NOTICE BE PROVIDED TO
28 PROPOSERS CONCERNING THE REJECTION OR ACCEPTANCE OF PROPOSALS; TO
29 REQUIRE THAT NOTIFICATION OF INTENT TO ACCEPT A PROPOSAL BY DFA
30 AND THE STATE BOND COMMISSION BE FILED WITH THE SECRETARY OF
31 STATE; TO REQUIRE DFA, THE STATE BOND COMMISSION AND THE SELECTED
32 PROPOSER TO ENTER INTO A MEMORANDUM OF UNDERSTANDING SETTING FORTH
33 THE CONDITIONS TO EXECUTION OF THE AGREEMENT WITHIN A CERTAIN
34 PERIOD OF TIME AFTER BEING FILED; TO PROVIDE THAT THE FAILURE OF A



35 SELECTED PROPOSER TO EXECUTE THE MEMORANDUM OF UNDERSTANDING
36 WITHIN THE SPECIFIED TIME PERIOD CONSTITUTES A DEFAULT AND
37 NULLIFIES ANY RIGHTS OF THE PROPOSER IN THE PROPOSAL; TO INDEMNIFY
38 CERTAIN OFFICIALS, EMPLOYEES OR MEMBERS OF THE GOVERNING BODY OF
39 THE DEPARTMENT, THE STATE BOND COMMISSION OR THE STATE FROM
40 PERSONAL LIABILITY FOR ANY DEFAULT OR BREACH BY THE STATE; TO
41 REQUIRE ANY AGREEMENT ENTERED INTO TO COMPLY WITH STATE PUBLIC
42 PURCHASING AND CONTRACTING LAWS; TO AUTHORIZE AN INSPECTION OF THE
43 PROPERTY BY PROPOSERS BEFORE THE SUBMISSION OF THEIR PROPOSALS;
44 AND FOR RELATED PURPOSES.

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

46 **SECTION 1.** For purposes of this act, the following words
47 shall have the meaning ascribed to them in this section, unless
48 the context requires otherwise:

49 (a) "Agreement" means the agreement between the State
50 of Mississippi and a selected private entity that provides for the
51 construction of a new Mississippi Department of Public Safety
52 Highway Patrol State Headquarters Facility in Rankin County,
53 Mississippi, and the redevelopment of the Mississippi Department
54 of Public Safety Highway Patrol Headquarters Facility in Jackson,
55 Hinds County, Mississippi, for mixed-use purposes.

56 (b) "Commission" means the State Bond Commission.

57 (c) "Department" means the Department of Finance and
58 Administration (DFA).

59 (d) "Property" means the Mississippi Department of
60 Public Safety Highway Patrol Headquarters Facility in Jackson,
61 Hinds County, Mississippi.

62 (e) "Proposal" means the document submitted to the
63 authority detailing the projected plans for the construction of a
64 new Mississippi Department of Public Safety Highway Patrol State



65 Headquarters Facility in Rankin County, Mississippi, and the
66 redevelopment of the Mississippi Department of Public Safety
67 Highway Patrol Headquarters Facility in Jackson, Hinds County,
68 Mississippi, for mixed-use purposes.

69 (f) "Proposer" means an individual, whether private or
70 corporate, submitting the proposal for construction and
71 redevelopment to the authority for selection.

72 (g) "State" means the State of Mississippi.

73 **SECTION 2.** (1) Acting on behalf of the Department of Public
74 Safety, the Department of Finance and Administration, with the
75 approval of the State Bond Commission, is authorized to enter into
76 an agreement to lease of all or any portion of certain state-owned
77 real property identified as the Mississippi Department of Public
78 Safety Highway Patrol Headquarters Facility in Jackson, Hinds
79 County, Mississippi, to an entity selected in the negotiation
80 process by DFA for purposes of redevelopment for a term to be
81 determined by parties to the agreement. The property shall be more
82 particularly described in the lease agreement.

83 (2) (a) The property described in subsection (1) of this
84 section shall be leased for private redevelopment in compliance
85 with the provisions of this act to result in the highest and best
86 use as determined by the Department of Finance and Administration
87 and to ensure that the property is used in a manner that will not
88 interfere with the operation of the University of Mississippi
89 Medical Center or the G.V. (Sonny) Montgomery VA Medical Center.



90 (b) It is the intent of the Legislature that the
91 property will be leased to a private developer selected by the
92 Department of Finance and Administration and the State Bond
93 Commission through the process prescribed by this act, for a term
94 not to exceed fifty (50) years, unless by mutual agreement by the
95 department and the commission to approve a lease for a term not to
96 exceed seventy (70) years, for the benefit of creating value by
97 promoting economic growth in the area, and from which the revenue
98 generated from the tenants occupying the redeveloped property
99 shall be used to finance the construction of a new Mississippi
100 Department of Public Safety Highway Patrol State Headquarters
101 Facility in Rankin County, Mississippi.

102 (c) At the expiration of any lease term established by
103 the department and the commission, the property described in
104 subsection (1) of this section shall revert to the state, which
105 shall also maintain all mineral rights in the property during the
106 lease term.

107 **SECTION 3.** (1) The Department of Finance and Administration
108 shall advertise the availability of the Mississippi Department of
109 Public Safety Highway Patrol Headquarters Facility and property in
110 Jackson, Hinds County, Mississippi, described in Section 2 of this
111 act for lease and redevelopment. Subject to the availability of
112 funds, the department is authorized to implement and conduct a
113 national advertising campaign to solicit requests for proposals
114 for the lease and redevelopment of the property.



115 (2) The department and the commission shall establish a
116 deadline to receive proposals submitted by interested parties.

117 **SECTION 4.** (1) Proposals to lease and redevelop all or any
118 part of the property described in Section 2 of this act must be
119 considered by the department and the commission. A party shall
120 submit a lease proposal on the applicable redevelopment proposal
121 form furnished by the department, accompanied by any appendices,
122 exhibits, or other materials as the proposer desires, including
123 the proposer's cost of projections for the construction of a new
124 Mississippi Department of Public Safety Highway Patrol State
125 Headquarters Facility in Rankin County, Mississippi, consistent
126 with the construction documents commissioned for such project by
127 the department. Proposals shall be subject to the requirements of
128 each of the documents required by the department and the
129 commission on the forms developed for proposals.

130 (2) The department and the commission shall conduct a
131 preproposal conference at a time, date and location as agreed upon
132 by both to be appropriate. Persons desiring notice if the
133 preproposal conference will be held at a time other than the
134 originally designated time, date and location, may submit a
135 written request to receive notice to the department. The
136 preproposal conference will be a forum to answer questions from
137 potential respondents to the requests for proposals in a fair and
138 open setting. The department may schedule one or more additional
139 preproposal conferences. Parties desiring notice of any



140 additional preproposal conferences may submit a written request to
141 receive notice to the department.

142 (3) Each proposer shall submit ten (10) copies of its
143 proposal to the department no later than 5:00 p.m. on the date of
144 the deadline established by the department and the commission.
145 All copies shall be in an eight and one-half (8-1/2) inches by
146 eleven (11) inches format, with graphics not exceeding eleven (11)
147 inches by seventeen (17) inches. Nine (9) of the ten (10) copies
148 shall be bound and one (1) of the copies shall remain unbound.
149 All proposals shall be in an envelope plainly marked "Department
150 of Public Safety Redevelopment and New Construction Proposal."
151 All proposals must be received by the department by the deadline
152 set for receipt of proposals.

153 (4) Each proposal to purchase all or a portion of the
154 property shall include:

155 (a) A statement that the proposal is to lease and
156 redevelop all or a portion of the property;

157 (b) A statement indicating whether the proposal is to
158 lease all or a portion of the property, and if the proposal is
159 with respect to a portion of the property, a statement identifying
160 the portion of the property with respect to which the proposal is
161 made;

162 (c) The lease price and /or other considerations
163 offered for the property or applicable portion thereof, or the
164 proposed method for determining the lease terms. Any proposal



165 contingent upon the department's financing all or part of the
166 lease must include detailed information concerning the proposed
167 financing terms and any collateral which will secure such
168 financing.

169 (d) A description of any variations from the form for
170 the agreement for the lease and redevelopment of the Mississippi
171 Department of Public Safety Highway Patrol State Headquarters
172 Facility in Jackson, Hinds County, Mississippi, which the proposer
173 will request; and

174 (e) A statement evidencing the proposer's agreement
175 that, if the department and the commission determine that it is in
176 the best interest of the public to accept the proposal, the
177 proposer will enter into a memorandum of understanding with the
178 department under which, subject to satisfaction of conditions set
179 forth in the agreement within time periods specified in the
180 agreement, the department and the proposer will agree to enter
181 into an agreement. The agreement shall be in substantially the
182 form set forth by the department and the commission, with any
183 modifications, additions and changes that are specifically set
184 forth in the proposal or that are mutually acceptable to the
185 proposer and the department.

186 (5) In addition to the requirements of subsection (4) of
187 this section, each proposal shall also include, at a minimum, the
188 following:



189 (a) A description of the development team, including,
190 as applicable:

191 (i) A description of the primary respondent and
192 related principals;

193 (ii) A description of team members, including
194 architects, consultants, contractors and major sub-contractors to
195 be used for both the redevelopment of the current facilities in
196 Jackson, Hinds County, Mississippi, and for the new headquarter
197 facilities in Rankin County, Mississippi;

198 (iii) A description of development and
199 redevelopment experience of team members and status of current
200 projects including experiences related to the design,
201 construction, leasing and management of urban real estate
202 projects;

203 (iv) A description of similar experiences of team
204 members in developing and redeveloping properties acquired from
205 public owners through the public process;

206 (v) The ability to assemble additional property to
207 increase the magnitude and impact of the proposed project if
208 applicable; and

209 (vi) A statement showing the proposer's
210 qualifications and financial responsibility on a form supplied by
211 the authority;



212 (b) Details of the proposed redevelopment of the
213 property or applicable portion thereof, including information
214 addressing, without limitation:

- 215 (i) The project vision;
- 216 (ii) A development concept including narrative
217 description and visual depictions;
- 218 (iii) A proposed redevelopment plan;
- 219 (iv) The anticipated types of uses;
- 220 (v) The approximate quantities and square footage
221 for each use;
- 222 (vi) A development timeline from execution of a
223 memorandum of understanding to completion of redevelopment; and
- 224 (vii) The preliminary project budget and
225 fifteen-year cash-flow proforma;

226 (c) A comprehensive description of any governmental
227 assistance or governmental participation in the proposed project
228 which the proposer will request or require;

229 (d) A comprehensive description of all conditions upon
230 the proposer's commitment to carry out redevelopment of the
231 property or applicable portion thereof in accordance with the
232 proposal;

233 (e) A comprehensive description of all conditions upon
234 the proposer's commitment to carry out construction of a New
235 Department of Public Safety Headquarters Facility in Rankin
236 County, Mississippi, in accordance with the proposal; and



237 (f) Any other information as the proposer may determine
238 to be appropriate to permit the authority to determine the
239 qualifications, experience and abilities of the proposer and to
240 gain a complete understanding of the proposer's vision for the
241 property.

242 **SECTION 5.** (1) In reviewing submitted proposals, the
243 evaluation team selected by the department and the commission
244 shall consider proposals that are contingent upon the authority's
245 financing all or part of the lease price.

246 (2) The department and the commission shall review and
247 consider all proposals in light of all factors deemed relevant,
248 including, without limiting the generality of its consideration,
249 the following:

250 (a) The overall qualifications, financial stability,
251 experience and past performance of the proposer;

252 (b) The experience of the proposer with respect to
253 activities comparable to those covered by the proposal;

254 (c) The overall qualifications, financial stability,
255 experience and past performance of the other members of the
256 development team;

257 (d) The qualification and experience of staff to be
258 assigned to the project;

259 (e) The proven ability of team members to successfully
260 design and redevelop high quality, high-density projects in an
261 urban setting;



262 (f) The legal ability of the proposer to carry out its
263 proposal;

264 (g) The proposer's ability to secure or provide
265 sufficient equity and construction and permanent financing for the
266 proposed undertaking;

267 (h) The proposed use or uses of the property or
268 applicable portion thereof;

269 (i) The cost, scope and scale of the proposed
270 redevelopment and the amount of the investment to be made by the
271 proposer;

272 (j) The projected impact of the proposed redevelopment
273 on the University of Mississippi Medical Center and the G.V.
274 (Sonny) Montgomery VA Medical Center, and the likelihood that the
275 proposed redevelopment will be a catalyst for additional
276 development and redevelopment;

277 (k) The overall financial attractiveness of the
278 proposal, and the anticipated net economic effect to the state by
279 the department's and authority's acceptance of the proposal,
280 including, but not limited to:

281 (i) The proposed lease price or rental payments;

282 (ii) The projected tax revenues to be generated by
283 and as a result of the proposed redevelopment; and

284 (iii) Any public assistance or incentives which
285 the proposer intends to request.

286 (l) The projected timetable for the redevelopment;



287 (m) Any other specific terms or conditions required or
288 requested in the proposal.

289 (3) (a) Representatives of the department and the commission
290 may commence review of a proposal at any time after its receipt;

291 (b) At any time after receipt of a proposal,
292 representatives of the department and the commission may request
293 any additional information from the proposer as may be necessary
294 to fully evaluate the proposal and the proposer's ability to carry
295 out the proposal, including information concerning a proposer's
296 qualifications or financial responsibility, and may discuss
297 possible modifications to the proposal;

298 (c) At any time after receipt of a proposal, the
299 proposer may be invited to make an oral presentation to, and to
300 respond to questions from the department or the commission; and

301 (d) At any time after the submission deadline,
302 representatives of the department may negotiate with any or all
303 parties submitting proposals concerning modifications to
304 proposals.

305 (4) Following receipt and review of all proposals and all
306 discussions and presentations, the department and the commission
307 shall evaluate and rank the proposals and, unless it recommends
308 rejection of all proposals, may enter into a redevelopment
309 agreement with the proposer receiving the highest evaluation or
310 ranking.



311 (5) The department and the commission shall select, unless
312 it is determined to reject all proposals, one or more proposals
313 and shall enter into negotiations with the party or parties
314 submitting the proposal or proposals. At that time, all proposers
315 shall be advised of the party or parties with whom negotiations
316 are entered. If the department and the commission determine to
317 negotiate with more than one (1) party, the determination as to
318 whether the redevelopment agreement will be entered into shall be
319 made on the basis of the factors set forth above.

320 (6) If the department and the commission determine not to
321 accept any of the proposals, all proposers must be advised of that
322 determination.

323 (7) The department and the commission reserve the right:

324 (a) To reject any and all proposals;

325 (b) To waive any and all informalities and
326 irregularities;

327 (c) To negotiate with any person or persons for
328 proposals; and

329 (d) To waive clarifications and exceptions.

330 (8) If the department and the commission determine that it
331 is in the best interest of the public to accept a proposal, a
332 notification of intent to accept the proposal shall be filed with
333 the Secretary of State. At that time, a copy of the notification
334 of intent shall also be delivered to the proposer designated as
335 the "selected proposer." The department shall determine whether



336 it is in the best interest of the public to accept a proposal and
337 which proposal, if any, to accept within ninety (90) days of the
338 submission deadline.

339 (9) Not less than thirty (30) days, and not more than ninety
340 (90) days, after the date on which the notification of intent is
341 filed, the department and the selected proposer shall enter into a
342 memorandum of understanding setting forth the conditions to
343 execution of a redevelopment and construction agreement, and the
344 time schedule for determining whether those conditions can be met.

345 (10) The failure of the selected proposer to execute the
346 memorandum of understanding within the prescribed time period, or
347 within any extension as may be granted, based upon reasons
348 determined sufficient by the department and the commission, shall
349 constitute a default, and the selected proposer shall have no
350 further rights with respect to the proposal.

351 (11) For any selected proposal for the redevelopment-new
352 development project, the department and the commission shall
353 obtain an independent audit of the proposal, including an
354 assessment of projected usage and public costs, before the
355 agreement is executed. The analysis shall be disclosed to the
356 public prior to execution of a redevelopment-new development
357 agreement. In addition to disclosing the independent audit to the
358 public, the responsible public entity shall provide the audit to
359 the chairmen of the House of Representatives Public Property, Ways
360 and Means and Appropriations Committees, and to the chairmen of



361 the Senate Public Property, Finance and Appropriation committees
362 prior to the execution of an agreement.

363 SECTION 6. (1) If one or more proposals are received and
364 reviewed before the submission deadline, every reasonable effort
365 will be made to assure the confidentiality of information included
366 in the proposal or proposals until the submission deadline.
367 Neither the department, the commission, nor any director,
368 employee, agent, attorney or other representative of either shall
369 be liable for disclosure of any such information. Records of
370 negotiation are exempt from disclosure under the Mississippi
371 Public Records Act of 1983. Other information such as originality
372 of design may only be protected under this section until a
373 public-private partnership agreement is reached. Projects under
374 federal jurisdiction or using federal funds must conform to
375 federal regulations under the Freedom of Information Act. Subject
376 to the foregoing requirements, the department and the commission
377 shall determine what is exempt from disclosure and shall otherwise
378 comply with the Mississippi Public Records Act of 1983.

379 (2) If the department and the commission and the selected
380 proposer have not executed a memorandum of understanding within
381 the time period established by subsection (9) of Section 5 of this
382 act, or have not entered into a redevelopment and construction
383 agreement within the time period specified in an executed
384 memorandum of understanding, the department may undertake
385 discussions and/or negotiations with one or more other parties



386 that submitted proposals, with or without terminating any existing
387 memorandum of understanding. In that event, if the department
388 determines that it is in the best interest of the public to accept
389 a different proposal, the department shall proceed with the
390 actions described in subsections (8), (9), (10) and (11) of
391 Section 5 of this act with respect to the other proposal.

392 **SECTION 7.** The selected proposer shall represent, warrant
393 and covenant that no official, employee or member of a governing
394 body of the State of Mississippi, the department or the
395 commission, and no person who has been a member of a governing
396 body of the state, the department or the commission during the
397 preceding one-year period, has or had any personal interest,
398 direct or indirect, in any agreement entered into under the
399 request for redevelopment proposals or the selected proposer. No
400 official, employee or member of the governing body of the
401 department, the commission or the state shall be personally liable
402 to the selected proposer or any successor in interest in the event
403 of any default or breach by the authority or for any amount which
404 may become due to the selected proposer or successor in interest
405 or on any obligations under the terms of any agreement entered
406 into under the request for redevelopment proposals.

407 **SECTION 8.** The State of Mississippi is committed to the
408 principle of nondiscrimination in public purchasing and
409 contracting and the ideals of equal business opportunities for all
410 persons in undertakings in which the state, its agencies and



411 political subdivisions are involved. Any redevelopment and
412 construction agreement must include provisions designed to assure
413 substantive participation by minority business enterprises in the
414 redevelopment of the property or applicable portion thereof,
415 consistent with the goals and objectives of the state's public
416 purchasing and contracting under Chapter 7, Title 31, Mississippi
417 Code of 1972.

418 **SECTION 9.** Each proposer may inspect the property before
419 submitting a proposal. Arrangements to enter the property should
420 be made by contacting the offices of the department and the
421 commission. Upon request, representatives of the department and
422 the commission shall meet with and make available any information
423 concerning the property to any party who demonstrates an interest
424 in submitting a proposal; however, no proposer shall rely upon any
425 oral interpretation of this request for redevelopment and
426 construction proposals.

427 **SECTION 10.** The department may modify the documents in any
428 respect at any time before the submission deadline, including, but
429 not limited to, modifications to extend the submission deadline at
430 any time either before or after the initial submission deadline.
431 Every modification must be in the form of addenda to the
432 documents. All addenda must be mailed to each person who received
433 documents from the department and requested notices of addenda,
434 but it shall be the proposer's responsibility to make inquiry as
435 to the addenda issued. All such addenda shall become part of the



436 documents and all proposers shall be bound by the addenda, whether
437 or not received by the proposer, provided that no proposer shall
438 be bound by an addendum, except one extending the submission
439 deadline, which was not issued and placed on file in the office of
440 the department at least five (5) days before the submission
441 deadline, unless the proposer received notice of the addendum
442 before the submission deadline. Any proposer that has submitted a
443 proposal before the issuance of an addendum shall be promptly
444 notified of the addendum and offered an opportunity to make any
445 modifications to the proposal as deemed reasonably necessary to
446 address the provisions of the addendum. All modifications shall
447 be submitted to the department before the submission deadline.

448 **SECTION 11.** (1) Before entering into an agreement, the
449 responsible public entity shall notify affected jurisdictions of
450 such proposal by furnishing a copy of the proposal to each
451 affected jurisdiction.

452 (2) Each affected jurisdiction may, within sixty (60) days
453 after receiving the notice, submit in writing any comments to the
454 department and the commission on the project's potential impact
455 and compatibility with local and regional budgets and
456 infrastructure plans.

457 (3) The department and the commission shall consider the
458 comments of the affected jurisdiction before entering into an
459 agreement with a proposer for the redevelopment and new
460 development of the properties described in Section 2 of this act.



461 **SECTION 12.** This act shall take effect and be in force from
462 and after July 1, 2017.

