

**Adopted
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

House Bill No. 1197

BY: Committee

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

31 **SECTION 1.** Section 31-7-13.1, Mississippi Code of 1972, is
32 amended as follows:
33 31-7-13.1. (1) The method of contracting for construction
34 described in this section shall be known as the " * * *
35 design-build method" of construction contracting. This method of
36 construction contracting may be used * * * on residential
37 buildings, residential mixed-use developments, parking garages and
38 other prescriptive type facilities. The design-build method of
39 construction contracting may only be used when the Department of
40 Finance and Administration or a governing authority has determined



41 that it satisfies the public interest better than traditional
42 design-bid or when the Legislature has specifically required or
43 authorized the use of this method in the legislation authorizing a
44 project. At a minimum, the determination must include a detailed
45 explanation of why using the * * * design-build method for a
46 particular project satisfies the public need better than the
47 traditional design-bid-build method based on the following
48 criteria:

49 (a) The project provides a savings in time or cost over
50 traditional methods; and

51 (b) The size and type of the project is suitable for
52 design-build.

53 (2) For each proposed * * * design-build project, either
54 a * * * fixed firm price or guaranteed maximum price contract must
55 be adopted. * * * Before solicitation of * * * proposals, the
56 agency or governing authority shall develop * * * a scope of work
57 statement that provides prospective offerors with sufficient
58 information regarding the requirements of the agency or governing
59 authority. The scope of work statement must include, but is not
60 limited to, the following information:

61 (a) * * * Location and nature of proposed site(s) that
62 include preliminary geotechnical information from borings as well
63 as survey drawings that show topography, adjacent buildings and
64 utilities;



65 (b) * * * Any mandatory requirements such as minimum
66 number and types of spaces, any minimum or maximum building
67 area(s) or height(s), applicable energy codes and/or efficiency
68 targets, applicable zoning regulations and any aesthetic or
69 character defining standards;

70 (c) * * * Any mandatory material and/or system
71 performance requirements and/or specifications; and

72 (d) * * * General budget parameters, schedule or
73 delivery requirements, relevant criteria for evaluation of
74 proposals, and any other information necessary to enable the
75 design-builders to submit proposals that meet the needs of the
76 agency or governing authority.

77 (3) The agency or governing authority shall cause to be
78 published once a week, for at least two (2) consecutive weeks in a
79 regular newspaper published in the county in which the project is
80 to be located, or a newspaper with statewide circulation, a notice
81 inviting proposals for the * * * design-build construction
82 project. On the same date that the notice is submitted to the
83 newspaper for publication, the agency or governing authority
84 involved shall post the notice on the Mississippi Procurement
85 Portal or mail written notice to, or provide electronic
86 notification to, the main office of the Mississippi Procurement
87 Technical Assistance Program under the Mississippi Development
88 Authority that contains the same information as that in the
89 published notice. The proposals shall not be opened in less than



90 fifteen (15) working days after the last notice is published. The
91 notice must inform potential offerors of how to obtain the scope
92 of work statement developed for the project, and the notice must
93 contain such other information to describe adequately the general
94 nature and scope of the project so as to promote full, equal and
95 open competition.

96 (4) The agency or governing authority shall accept initial
97 proposals only from entities able to provide an experienced and
98 qualified design-build team that includes, at a minimum, an
99 architectural or engineering firm licensed and registered in
100 Mississippi and a contractor properly licensed and domiciled in
101 Mississippi for the type of work required. * * *

102 (5) * * * Proposals that include criteria other than cost
103 only shall be evaluated by an evaluation committee established by
104 the procuring entity. The evaluation committee shall be composed
105 of not less than three (3) people, at least one (1) of which shall
106 be an architect or engineer licensed and registered in
107 Mississippi. Selection criteria of the evaluation committee shall
108 be limited to the following:

109 (a) The bidder's knowledge and experience in executing
110 projects of similar size and complexity;

111 (b) The experience and qualifications of the proposed
112 office and construction management personnel;

113 (c) The experience and qualifications of the
114 subcontractors proposed;



115 (d) The experience and qualifications of the architect
116 or engineer and consultants;
117 (e) Schedule control; and
118 (f) Cost factors.

119 Cost as an evaluation factor shall be given the highest
120 criteria weighting and at least thirty-five percent (35%) out of
121 the one hundred percent (100%) total weight of all the other
122 evaluation factors.

123 (6) If the agency or governing authority accepts a proposal
124 other than the * * * proposal with the lowest costs that was
125 actually submitted, the agency or governing authority shall enter
126 on its minutes detailed calculations and a narrative summary
127 showing why the accepted proposal was determined to provide the
128 best value, and the agency or governing authority shall state
129 specifically on its minutes the justification for its award.

130 (7) All facilities that are governed by this section shall
131 be designed and constructed to comply with standards equal to or
132 exceeding the minimum building code standards employed by the
133 state as required under Section 31-11-33 in force at the time of
134 contracting. All private contractors or private entities
135 contracting or performing under this section must comply at all
136 times with all applicable laws, codes and other legal requirements
137 pertaining to the project.



138 (8) * * * An agency or governing authority may not award a
139 stipulated fee * * * to an offeror for preparation costs to submit
140 a response to the request for proposals.

141 (9) This section shall not authorize the awarding of
142 construction contracts according to any contracting method that
143 does not require the contractor to satisfactorily perform, at a
144 minimum, both any balance of design, using an independent
145 professional licensed in Mississippi, and construction of the
146 project for which the contract is awarded.

147 (10) The provisions of this section shall not affect any
148 procurement by the Mississippi Transportation Commission.

149 (11) The provisions of this section shall not apply to
150 procurement authorized in Section 59-5-37(3).

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

153 31-11-3. (1) The Department of Finance and Administration,
154 for the purposes of carrying out the provisions of this chapter,
155 in addition to all other rights and powers granted by law, shall
156 have full power and authority to employ and compensate architects
157 or other employees necessary for the purpose of making
158 inspections, preparing plans and specifications, supervising the
159 erection of any buildings, and making any repairs or additions as
160 may be determined by the Department of Finance and Administration
161 to be necessary, pursuant to the rules and regulations of the
162 State Personnel Board. The department shall have entire control



163 and supervision of, and determine what, if any, buildings,
164 additions, repairs, demolitions or improvements are to be made
165 under the provisions of this chapter, subject to the regulations
166 adopted by the Public Procurement Review Board.

167 (2) The department shall have full power to erect buildings,
168 make repairs, additions or improvements, demolitions, to grant or
169 acquire easements or rights-of-way, and to buy materials, supplies
170 and equipment for any of the institutions or departments of the
171 state subject to the regulations adopted by the Public Procurement
172 Review Board. In addition to other powers conferred, the
173 department shall have full power and authority, as directed by the
174 Legislature, or when funds have been appropriated for its use for
175 these purposes, to:

176 (a) Build a state office building;

177 (b) Build suitable plants or buildings for the use and
178 housing of any state schools or institutions, including the
179 building of plants or buildings for new state schools or
180 institutions, as provided for by the Legislature;

181 (c) Provide state aid for the construction of school
182 buildings;

183 (d) Promote and develop the training of returned
184 veterans of the United States in all sorts of educational and
185 vocational learning to be supplied by the proper educational
186 institution of the State of Mississippi, and in so doing allocate
187 monies appropriated to it for these purposes to the Governor for



188 use by him in setting up, maintaining and operating an office and
189 employing a state director of on-the-job training for veterans and
190 the personnel necessary in carrying out Public Law No. 346 of the
191 United States;

192 (e) Build and equip a hospital and administration
193 building at the Mississippi State Penitentiary;

194 (f) Build and equip additional buildings and wards at
195 the Boswell Retardation Center;

196 (g) Construct a sewage disposal and treatment plant at
197 the Mississippi State Hospital, and in so doing acquire additional
198 land as may be necessary, and to exercise the right of eminent
199 domain in the acquisition of this land;

200 (h) Build and equip the Mississippi central market and
201 purchase or acquire by eminent domain, if necessary, any lands
202 needed for this purpose;

203 (i) Build and equip suitable facilities for a training
204 and employing center for the blind;

205 (j) Build and equip a gymnasium at Columbia Training
206 School;

207 (k) Approve or disapprove the expenditure of any money
208 appropriated by the Legislature when authorized by the bill making
209 the appropriation;

210 (l) Expend monies appropriated to it in paying the
211 state's part of the cost of any street paving;



212 (m) Sell and convey state lands when authorized by the
213 Legislature, cause said lands to be properly surveyed and platted,
214 execute all deeds or other legal instruments, and do any and all
215 other things required to effectively carry out the purpose and
216 intent of the Legislature. Any transaction which involves state
217 lands under the provisions of this paragraph shall be done in a
218 manner consistent with the provisions of Section 29-1-1;

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

223 (o) Purchase lands for building sites, or as additions
224 to building sites, for the erection of buildings and other
225 facilities which the department is authorized to erect, and
226 demolish and dispose of old buildings, when necessary for the
227 proper construction of new buildings. Any transaction which
228 involves state lands under the provisions of this paragraph shall
229 be done in a manner consistent with the provisions of Section
230 29-1-1;

231 (p) Obtain business property insurance with a
232 deductible of not less than One Hundred Thousand Dollars
233 (\$100,000.00) on state-owned buildings under the management and
234 control of the department; and

235 (q) In consultation with and approval by the Chairmen
236 of the Public Property Committees of the Senate and the House of



237 Representatives, enter into contracts for the purpose of providing
238 parking spaces for state employees who work in the Woolfolk
239 Building, the Carroll Gartin Justice Building or the Walter
240 Sillers Office Building.

241 (3) The department shall survey state-owned and
242 state-utilized buildings to establish an estimate of the costs of
243 architectural alterations, pursuant to the Americans With
244 Disabilities Act of 1990, 42 USCS, Section 12111 et seq. The
245 department shall establish priorities for making the identified
246 architectural alterations and shall make known to the Legislative
247 Budget Office and to the Legislature the required cost to
248 effectuate such alterations. To meet the requirements of this
249 section, the department shall use standards of accessibility that
250 are at least as stringent as any applicable federal requirements
251 and may consider:

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

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

259 (c) Design manuals;

260 (d) Applicable federal guidelines;

261 (e) Current literature in the field;



262 (f) Applicable safety standards; and
263 (g) Any applicable environmental impact statements.

264 (4) The department shall observe the provisions of Section
265 31-5-23 in letting contracts and shall use Mississippi products,
266 including paint, varnish and lacquer which contain as vehicles
267 tung oil and either ester gum or modified resin (with rosin as the
268 principal base of constituents), and turpentine shall be used as a
269 solvent or thinner, where these products are available at a cost
270 not to exceed the cost of products grown, produced, prepared, made
271 or manufactured outside of the State of Mississippi.

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

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

279 (7) The department shall review and preapprove all
280 architectural or engineering service contracts entered into by any
281 state agency, institution, commission, board or authority,
282 regardless of the source of funding used to defray the costs of
283 the construction or renovation project, for which services are to
284 be obtained to ensure compliance with purchasing regulations and
285 to confirm that the contracts are procured by a competitive
286 qualification-based selection process except where such



287 appointment is for an emergency project or for a continuation of a
288 previous appointment for a directly related project. The
289 provisions of this subsection (7) shall not apply to:

290 (a) Any architectural or engineering contract fully
291 paid for by self-generated funds of any of the state institutions
292 of higher learning;

293 (b) Any architectural or engineering contract that is
294 self-administered at a state institution of higher learning as
295 provided under Section 27-104-7(2) (b) or 37-101-15(m);

296 (c) Community college projects that are fully funded
297 from local funds or other nonstate sources which are outside the
298 Department of Finance and Administration's appropriations or as
299 directed by the Legislature;

300 (d) Any construction or design projects of the State
301 Military Department that are fully or partially funded from
302 federal funds or other nonstate sources; and

303 (e) Any project of the State Department of
304 Transportation.

305 (8) (a) The department shall have the authority to obtain
306 annually from the state institutions of higher learning, the state
307 community colleges and junior colleges, the Department of Mental
308 Health, the Department of Corrections and the Department of
309 Wildlife, Fisheries and Parks information on all renovation and
310 repair expenditures for buildings under their operation and
311 control, including duties, responsibilities and costs of any



312 architect or engineer hired by any such institutions, and shall
313 annually report the same to the Legislative Budget Office, the
314 Chairman of the House Public Property Committee and the Chairman
315 of the Senate Public Property Committee before September 1.

316 (b) All state agencies, departments and institutions
317 are required to cooperate with the Department of Finance and
318 Administration in carrying out the provisions of this subsection.

319 (c) Expenditures shall not include those amounts
320 expended for janitorial, landscaping or administrative support,
321 but shall include expenditures from both state and nonstate
322 sources.

323 (d) Expenditures shall not include amounts expended by
324 the department on behalf of state agencies, departments and
325 institutions through the Department of Finance and Administration
326 administered contracts, but shall include amounts transferred to
327 the Department of Finance and Administration for support of such
328 contracts.

329 (9) As an alternative to other methods of awarding contracts
330 as prescribed by law, the department may elect to use the method
331 of contracting for construction projects set out in Sections
332 31-7-13.1 and 31-7-13.2; however, the * * * design-build method of
333 construction contracting authorized under Section 31-7-13.1 may be
334 used only when the Legislature has specifically required or
335 authorized the use of this method in the legislation authorizing a
336 project.



337 (10) The department shall have the authority, for the
338 purposes of carrying out the provisions of this chapter, and in
339 addition to all other rights and powers granted by law, to create
340 and maintain a list of suspended and debarred contractors and
341 subcontractors. Consistent with this authority, the department
342 may adopt regulations governing the suspension or debarment of
343 contractors and subcontractors, which regulations shall be subject
344 to the approval of the Public Procurement Review Board. A
345 suspended or debarred contractor or subcontractor shall be
346 disqualified from consideration for contracts with the department
347 during the suspension or debarment period in accordance with the
348 department's regulations.

349 (11) This section shall not apply to the Mississippi State
350 Port Authority.

351 **SECTION 3.** Section 61-3-15, Mississippi Code of 1972, is
352 amended as follows:

353 61-3-15. An authority shall have all the powers necessary or
354 convenient to carry out the purposes of this chapter (excluding
355 the power to levy and collect taxes or special assessments)
356 including, but not limited to, the power:

357 (a) To sue and be sued, to have a seal and to have
358 perpetual succession.

359 (b) To purchase general liability insurance coverage,
360 including errors and omissions insurance, for its officials and
361 employees.



362 (c) To employ an executive director, secretary,
363 technical experts, and such other officers, agents and employees,
364 permanent and temporary, as it may require, and to determine their
365 qualifications and duties, and to establish compensation and other
366 employment benefits as may be advisable to attract and retain
367 proficient personnel.

368 (d) To execute such contracts and other instruments and
369 take such other action as may be necessary or convenient to carry
370 out the purposes of this chapter.

371 (e) To plan, establish, develop, construct, enlarge,
372 improve, maintain, equip, operate, regulate and protect airports
373 and air navigation facilities within this state and within any
374 adjoining state, including the acquisition, lease, lease-purchase,
375 construction, installation, equipment, maintenance and operation
376 of such airports or buildings, equipment and other facilities or
377 other property for the servicing of aircraft or for the comfort
378 and accommodation of air travelers or for any other purpose deemed
379 by the authority to be necessary to carry out its duties; to
380 develop, operate, manage or own and maintain intermodal facilities
381 to serve air and surface cargo and multimodal facilities to serve
382 highway and rail passenger transportation needs to ensure
383 interface and interaction between modes for cargo and passengers;
384 to construct, improve, and maintain means of ingress and egress to
385 airport properties from and over off-airport sites with approval
386 of the city or county in which the off-airport site is located; to



387 market, promote and advertise airport properties, goods and
388 services; and to directly purchase and sell supplies, goods and
389 commodities incident to the operation of its airport properties
390 without having to make purchases thereof through the municipal
391 governing authorities, and with the authority to utilize * * *
392 design-build and construction manager at-risk methods of
393 construction in accordance with Sections 31-7-13.1 and 31-7-13.2.
394 For all the previously stated purposes, an authority may, by
395 purchase, gift, devise, lease, eminent domain proceedings or
396 otherwise, acquire property, real or personal, or any interest
397 therein, including easements in airport hazards or land outside
398 the boundaries of an airport or airport site, as are necessary to
399 permit the removal, elimination, obstruction-marking or
400 obstruction-lighting of airport hazards, to prevent the
401 establishment of airport hazards or to carry out its duties.

402 (f) To acquire, by purchase, gift, devise, lease,
403 lease-purchase, eminent domain proceedings or otherwise, existing
404 airports and air navigation facilities. However, an authority
405 shall not acquire or take over any airport or air navigation
406 facility owned or controlled by another authority, a municipality
407 or public agency of this or any other state without the consent of
408 such authority, municipality or public agency.

409 (g) To establish or acquire and maintain airports in,
410 over and upon any public waters of this state, and any submerged
411 lands under such public waters, and to construct and maintain



412 terminal buildings, landing floats, causeways, roadways and
413 bridges for approaches to or connecting with any such airport, and
414 landing floats and breakwaters for the protection thereof.

415 (h) To establish, enact and enforce ordinances, rules,
416 regulations and standards for public safety, aviation safety,
417 airport operations and the preservation of good order and peace of
418 the authority; to prevent injury to, destruction of or
419 interference with public or private property; to protect property,
420 health and lives and to enhance the general welfare of the
421 authority by restricting the movements of citizens or any group
422 thereof on the property of the authority when there is imminent
423 danger to the public safety because of freedom of movement
424 thereof; to regulate the entrances to property and buildings of
425 the authority and the way of ingress and egress to and from the
426 same; to establish fire limits and to hire firemen, including
427 aircraft fire and rescue and similar personnel, and to establish
428 and equip a fire department to provide fire and other emergency
429 services on any property of the authority; to regulate, restrain
430 or prohibit construction failing to meet standards established by
431 the authority; to appoint and discharge police officers with
432 jurisdiction limited to property of the airport authority and
433 authorization to enforce the ordinances, rules and regulations of
434 the authority, as well as the laws of the State of Mississippi,
435 and to issue citations for infractions of all of such ordinances,



436 rules, regulations, standards and laws of the State of Mississippi
437 returnable to the court of appropriate jurisdiction.

438 (i) To develop and operate an industrial park or parks
439 and exercise all authority provided for under Chapter 7, Title 57,
440 Mississippi Code of 1972.

441 (j) To attach, pursuant to the power and procedure set
442 forth in Chapter 33, Title 11, Mississippi Code of 1972, the
443 equipment of debtors of the authority.

444 (k) To enter into agreements with local governments
445 pursuant to Section 17-13-1 et seq.

446 (l) To render emergency assistance to other airports
447 within the United States at an aggregate cost of less than Twenty
448 Thousand Dollars (\$20,000.00) per emergency. The assistance
449 authorized in this paragraph must be rendered within ninety (90)
450 days after a state of emergency has been declared by the federal
451 government, or by the local or state government that has
452 jurisdiction over the area where the airport needing assistance is
453 located.

454 (m) To enter into joint use or similar agreements with
455 any department or agency of the United States of America or the
456 State of Mississippi, including any military department of the
457 United States of America or the State of Mississippi, with respect
458 to the use and operation of, or services provided at, any airport
459 or other property of the authority on the terms and conditions as
460 the authority may deem appropriate, including provisions limiting



461 the liability of the United States of America or the State of
462 Mississippi for loss or damage to the authority if the authority
463 determines that the limitation of liability is reasonable,
464 necessary and appropriate under the circumstances.

465 (n) To enter into mutual aid agreements with counties
466 and municipalities for reciprocal emergency aid and assistance in
467 case of emergencies too extensive to be dealt with unassisted; to
468 participate in the Statewide Mutual Aid Compact (SMAC) in
469 accordance with Section 33-15-19.

470 **SECTION 4.** This act shall take effect and be in force from
471 and after July 1, 2021.

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

1 AN ACT TO AMEND SECTION 31-7-13.1, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE DUAL-PHASE DESIGN-BUILD METHOD OF CONSTRUCTION
3 CONTRACTING; TO REMOVE THE REQUIREMENT FOR TWO PHASES OF
4 DESIGN-BUILD CONSTRUCTION CONTRACTING; TO PROVIDE THAT
5 DESIGN-BUILD CONSTRUCTION CONTRACTING MAY BE USED FOR RESIDENTIAL
6 BUILDINGS, RESIDENTIAL MIXED-USE DEVELOPMENTS, PARKING GARAGES AND
7 OTHER PRESCRIPTIVE TYPE FACILITIES; TO PROVIDE THAT THE
8 DESIGN-BUILD METHOD OF CONSTRUCTION CONTRACTING MAY ONLY BE USED
9 WHEN THE DEPARTMENT OF FINANCE AND ADMINISTRATION OR A GOVERNING
10 AUTHORITY HAS DETERMINED THAT USING THE DESIGN-BUILD METHOD OF
11 CONSTRUCTION CONTRACTING SATISFIES THE PUBLIC INTEREST BETTER THAN
12 TRADITIONAL DESIGN BID OR WHEN THE LEGISLATURE HAS SPECIFICALLY
13 REQUIRED OR AUTHORIZED THE USE OF THIS METHOD IN THE LEGISLATION
14 AUTHORIZING A PROJECT; TO PROVIDE THAT INSTEAD OF THE DUAL-PHASE
15 PROCEDURE FOR AWARDED A CONTRACT, FOR EACH PROPOSED DESIGN-BUILD
16 PROJECT, EITHER A FIXED FIRM PRICE OR GUARANTEED MAXIMUM PRICE
17 CONTRACT MUST BE ADOPTED; TO REVISE WHAT MUST BE INCLUDED IN THE
18 WORK STATEMENT; TO PROVIDE THAT NOTICE SHALL ALSO BE POSTED ON THE
19 MISSISSIPPI PROCUREMENT PORTAL; TO PROVIDE THAT PROPOSALS WHICH
20 INCLUDE CRITERIA OTHER THAN COST ONLY SHALL BE EVALUATED BY AN
21 EVALUATION COMMITTEE ESTABLISHED BY THE PROCURING ENTITY; TO
22 PROVIDE THE MAKEUP OF THE EVALUATION COMMITTEE AND THE SELECTION



23 CRITERIA THAT THE EVALUATION COMMITTEE SHALL CONSIDER WHEN
24 EVALUATING SUBMITTED PROPOSALS; TO PROVIDE THAT AN AGENCY OR
25 GOVERNING AUTHORITY MAY NOT AWARD A STIPULATED FEE TO AN OFFEROR
26 FOR PREPARATION COSTS TO SUBMIT A RESPONSE TO THE REQUEST FOR
27 PROPOSALS; TO AMEND SECTIONS 31-11-3 AND 61-3-15, MISSISSIPPI CODE
28 OF 1972, TO CONFORM TO THE PRECEDING SECTION; AND FOR RELATED
29 PURPOSES.

