

1 HB419
2 216772-5
3 By Representative Ledbetter
4 RFD: Education Policy
5 First Read: 01-MAR-22

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ENROLLED, An Act,

Relating to construction of certain property; to amend Sections 16-1-2.4, 16-1-2.5, 41-4-400, and 41-4-401, Code of Alabama 1975, relating to construction at educational facilities; to further provide for inspection of certain projects at educational facilities by the Division of Construction Management; to further provide for contracts between educational entities and the Division of Construction Management; to further provide for reports by the Division of Construction Management to the Legislature; to provide a limited exception for ongoing projects; and to make nonsubstantive, technical revisions to update the existing code language to current style.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 16-1-2.4, 16-1-2.5, 41-4-400, and 41-4-401, Code of Alabama 1975, as amended by Act 2021-476, 2021 Regular Session, are amended to read as follows:

"§16-1-2.4.

"(a) Notwithstanding any provision of law to the contrary, the governing board of each educational institution or state educational institution, as defined in Section 41-4-400(d), shall have full power and authority for, and on

1 behalf of, the State of Alabama to do any or all of the
2 following in relation to that institution:

3 "(1) To acquire lands by purchase, condemnation, or
4 otherwise.

5 "(2) To plan for the construction, repair,
6 remodeling, enlargement, renovation, furnishing, refurnishing,
7 improvement, or relocation of buildings, structures, and
8 facilities.

9 "(3) To set policies, procedures, and guidelines for
10 the design, construction, renovation, equipment, furnishing,
11 maintenance, and improvement of all property now owned or
12 hereafter acquired.

13 "(4) To construct, repair, equip, remodel, enlarge,
14 renovate, furnish, refurnish, improve, and locate buildings,
15 structures, and facilities.

16 "(5) To enter into contracts or consult with
17 architects, engineers, contractors, suppliers, and others as
18 needed to perform any of the functions provided for in this
19 subsection.

20 "(6) To receive any monies, land, or equipment
21 donated, appropriated, or otherwise acquired by it for the
22 purposes provided for in this subsection.

23 "(7) To charge and provide for collection of user
24 fees for its services. The fees established shall take into

1 consideration the costs of the governing board incurred under
2 this section.

3 "(8) To make and adopt all necessary rules,
4 regulations, and plans for its own guidance and for the proper
5 conduct of the duties imposed upon it.

6 "(9) To review and approve or disapprove all
7 proposed construction, renovation, or improvement projects for
8 constructability, durability, and maintainability and to
9 ensure the efficient use and availability of funds.

10 "(10) To review and administer all design and
11 construction contracts for facilities as provided for in this
12 subsection.

13 "(11) To review all emergency project declarations
14 and to aid in the timely execution of emergency projects.

15 "(12) To hire architects, inspectors, and any other
16 personnel necessary for the purposes provided for in this
17 subsection or the duties assigned under this section.

18 "(b) (1)a. At any ~~public~~ K-12 school or at any
19 four-year public institution of higher education ~~with a~~
20 ~~constitutionally created board of trustees,~~ any capital
21 improvement project ~~with an estimated cost certified by a~~
22 ~~licensed architect or licensed engineer to be no more than~~
23 ~~five hundred thousand dollars (\$500,000); any repair or~~
24 ~~maintenance of heating, ventilation, and air conditioning~~
25 ~~systems; and any roofing repair or maintenance~~ or any

1 alterations, additions, repair, or maintenance of heating,
2 ventilation, and air conditioning systems or any alterations,
3 additions, repair, or maintenance of a roof shall not be
4 subject to approval by the Division of Construction Management
5 within the Department of Finance; provided, that the estimated
6 cost of the project after design completion is certified by a
7 licensed architect or licensed engineer to be no more than
8 ~~five hundred thousand dollars (\$500,000)~~ seven hundred fifty
9 thousand dollars (\$750,000).

10 "b.1. For any project exempt from approval pursuant
11 to paragraph a., the governing body of the K-12 school or
12 four-year public institution of higher education shall submit
13 documents to the Division of Construction Management for the
14 sole purpose of review and inspection for compliance with the
15 Americans with Disabilities Act, 42 U.S.C. § 12-1-1 et seq.,
16 and rules and regulations adopted thereunder, and for fire
17 safety and life safety compliance, and issuance of written
18 recommendations to the school or institution at no cost to the
19 school or institution or the governing body for the school or
20 institution.

21 "2. The Division of Construction Management shall
22 issue its written recommendations no later than 30 days
23 following receipt of documentation pursuant to subparagraph 1.
24 If the division is unable to issue recommendations within the
25 30-day period following receipt of documentation, the

1 division, prior to the expiration of the 30-day period, shall
2 issue to the party that submitted the documentation a written
3 notice explaining the reasons for the delay, and shall issue
4 the recommendations no later than 45 days following the
5 original receipt of documentation pursuant to subparagraph 1.

6 "3. Recommendations issued by the division pursuant
7 to this paragraph shall be maintained by the division as
8 public writings for purposes of Article 3 of Chapter 12 of
9 Title 36.

10 ~~b.~~ c. The Division of Construction Management, in
11 consultation with the State Department of Education, shall
12 develop and distribute forms relating to projects subject to
13 this subdivision for use by local boards of education. The
14 ~~department~~ division shall ensure that the use of these forms
15 ~~do~~ alone does not require use of Division of Construction
16 Management services for projects subject to this subdivision,
17 except for the issuance of recommendations pursuant to
18 paragraph b.

19 "d. For purposes of this subdivision, "fire safety
20 and life safety compliance" means compliance with those
21 provisions of uniform minimum building standards code adopted
22 by the Division of Construction Management pursuant to law
23 that relate to risk of electrical or fire hazards, risk of
24 injury, or illness.

1 "(2) Any repair or maintenance project with an
2 estimated cost certified by a licensed architect or licensed
3 engineer to be no more than ~~five hundred thousand dollars~~
4 ~~(\$500,000)~~ seven hundred fifty thousand dollars (750,000); any
5 repair or maintenance of heating, ventilation, and air
6 conditioning systems; and any roofing repair or maintenance
7 shall not be subject to approval by the governing board of an
8 educational institution or state educational institution.

9 "(c) All powers, authority, and jurisdiction of the
10 Division of Construction Management or the former Building
11 Commission relating to any educational institution or state
12 educational institution, including, but not limited to, those
13 authorities currently established in Sections 16-1-2.2,
14 16-16-10(o) (2) and (p), 39-2-2(f) (1), 41-9-243, and
15 41-16-72(3) (a) through (f), which were previously transferred
16 to the Division of Construction Management within the
17 Department of Finance, are transferred to the governing board
18 of that institution; provided, that the Division of
19 Construction Management shall retain its authority to adopt
20 uniform minimum building standards code for the construction
21 and renovation of facilities at any educational institution or
22 state educational institution.

23 "§16-1-2.5.

24 "The State Department of Education~~;~~ an educational
25 institution~~;~~ or a state educational institution, as defined in

1 Section 41-4-400(d)~~7;~~ a ~~public~~ K-12 school~~7;~~ or a four-year
2 public institution of higher education ~~with a constitutionally~~
3 ~~created board of trustees~~ may contract with the Division of
4 Construction Management within the Department of Finance for
5 any purpose.

6 "§41-4-400.

7 "(a) There shall be established within the
8 Department of Finance the Division of Construction Management.
9 The division shall have full power and authority for, and on
10 behalf of, the State of Alabama to do any or all of the
11 following:

12 "(1) To acquire lands by purchase, condemnation, or
13 otherwise.

14 "(2) To plan for the construction, repair,
15 remodeling, enlargement, renovation, furnishing, refurnishing,
16 improvement, or relocation of buildings, structures, and
17 facilities for state departments, boards, bureaus,
18 commissions, agencies, and offices.

19 "(3) To set policies, procedures, and guidelines for
20 the design, construction, renovation, equipment, furnishing,
21 maintenance, and improvement of all property now owned or
22 hereafter acquired by the state or any institution or agency
23 thereof.

24 "(4) To construct, repair, equip, remodel, enlarge,
25 renovate, furnish, refurnish, improve, and locate buildings,

1 structures, and facilities for the use of the State of Alabama
2 or any of its departments, boards, bureaus, commissions,
3 agencies, and offices as in its judgment shall be necessary
4 for state, institutional, or agency purposes.

5 "(5) To enter into contracts or consult with
6 architects, engineers, contractors, suppliers, and others as
7 needed to perform any of the functions provided for in this
8 subsection.

9 "(6) To receive any monies, land, or equipment
10 donated, appropriated, or otherwise acquired by it for the
11 purposes provided for in this subsection.

12 "(7) To charge and provide for collection of user
13 fees for its services. The fees established shall take into
14 consideration the costs of operating the division.

15 "(8) To make and adopt all necessary rules,
16 regulations, and plans for its own guidance and for the proper
17 conduct of the duties imposed upon it.

18 "(9) To review and approve or disapprove all
19 proposed construction, renovation, or improvement projects for
20 constructability, durability, and maintainability and to
21 ensure the efficient use and availability of funds.

22 "(11) To review and administer all design and
23 construction contracts for all state-owned facilities as
24 provided for in this subsection.

1 "(12) To submit to the Director of Finance the
2 priorities and recommendations for the repair, renovation,
3 capital improvement, and planning needs of state departments,
4 boards, bureaus, commissions, agencies, and offices.

5 "(13) To review and approve or disapprove all state
6 bond expenditures approved for construction.

7 "(14) To review all emergency project declarations
8 and to aid in the timely execution of emergency projects.

9 "(b) The Division of Construction Management shall
10 be headed by and under the supervision, direction, and control
11 of an officer who shall be designated director of construction
12 management. He or she shall be appointed, subject to the
13 provisions of the state Merit Law, by the Director of Finance,
14 with the approval of the Governor. The compensation of such
15 officer shall be fixed in accordance with the pay plan of the
16 state Merit System.

17 "(c) Effective October 1, 2015, the Building
18 Commission established in Section 41-9-140 is abolished. All
19 powers, authority, and jurisdiction of the Building
20 Commission, including, but not limited to, those authorities
21 currently established in Sections 16-1-2.1 and 16-1-2.2,
22 16-16-10(o)(2) and (p), 34-14B-1 to 34-14B-10, 39-2-2(f)(1),
23 41-9-160 to 41-9-165, 41-9-170 to 41-9-174, 41-9-243,
24 41-9-542, 41-10-271, 41-10-364, and 41-16-72(3)(a) through (f)

1 are hereby transferred to the Division of Construction
2 Management within the Department of Finance.

3 "(d) (1) Notwithstanding any other provision of this
4 article or any other provision of law to the contrary, the
5 powers, authority, and jurisdiction granted to the Division of
6 Construction Management within this section does not extend to
7 property which is part of an educational institution or a
8 state educational institution or any existing, planned, or
9 future ancillary improvement on that property, including, but
10 not limited to, design or construction projects either
11 partially or fully funded by the Public School and College
12 Authority. The Division of Construction Management shall
13 retain its authority to adopt uniform minimum building
14 standards code for the construction and renovation of
15 facilities at any educational institution or state educational
16 institution. For purposes of this article and Sections
17 16-1-2.4 and 16-1-2.5, "educational institution" and "state
18 educational institution" shall have the same meaning as
19 provided in Section 16-17-1, but shall not include ~~public~~ K-12
20 schools or public four-year institutions of higher education
21 ~~with constitutionally created boards of trustees.~~

22 "(2) Except as otherwise provided in subdivision
23 (1), any powers, authority, and jurisdiction granted to the
24 Division of Construction Management within this section
25 relating to an educational institution or state educational

1 institution, including, but not limited to, those relating to
2 design or construction projects either partially or fully
3 funded by the Public School and College Authority, are hereby
4 transferred to the governing board of each institution, as
5 provided in Section 16-1-2.4.

6 "(e) Notwithstanding any other provisions of this
7 article, all persons employed with the Building Commission on
8 October 1, 2015, shall be transferred to the Department of
9 Finance.

10 "§41-4-401.

11 "(a) The Division of Construction Management within
12 the Department of Finance shall provide for the submission and
13 signing of documents via electronic means, at no additional
14 cost to the party submitting or signing the document.

15 "(b) No later than November 30 of each year, the
16 Division of Construction Management shall submit a report to
17 the Speaker of the House, the Speaker Pro Tempore, the
18 Lieutenant Governor, the President Pro Tempore of the Senate,
19 and the Majority Leader and Minority Leader of both the House
20 of Representatives and the Senate. The report shall include
21 all of the following, as they relate to each plan or project
22 proposal submitted to the division during the preceding fiscal
23 year relating to a public K-12 school:

24 "(1) The name of the public K-12 school at which the
25 project will take place.

1 "(2) The final cost of the project.

2 "(3) ~~Any increase in cost~~ The number of state
 3 building code violations of a project as discovered by the
 4 field inspection of the construction improvements ~~due to any~~
 5 ~~requirement of or change to the plan or proposal requested~~ by
 6 the division, ~~and the reason for that increase~~ itemized by
 7 categories, including, but not limited to, accessibility for
 8 disabled persons, fire safety, and life safety.

9 "(4) For each document submitted to the division for
 10 review or approval, the time elapsed between the receipt of
 11 the document and the return of the document to the submitting
 12 party or other appropriate response by the division."

13 Section 2. The amendatory language of this act as it
 14 amends Sections 16-1-2.4, 16-1-2.5, and 41-4-400, Code of
 15 Alabama 1975, shall not apply to any construction, repair,
 16 maintenance, or renovation project at a K-12 school or a
 17 public institution of higher education for which ~~the physical~~
 18 ~~work has commenced~~ a contract has been awarded prior to the
 19 effective date of this act.

20 Section 3. The amendatory language of this act as it
 21 amends Sections 16-1-2.4, 16-1-2.5, and 41-4-400, Code of
 22 Alabama 1975, shall not apply to any member institution of the
 23 Alabama Community College System, any trade school, or any
 24 properties or facilities of the State Parks Division of the
 25 Department of Conservation and Natural Resources.

1 Section 4. This act shall become effective
2 ~~immediately following its passage and approval by the~~ on
3 October 1, 2022, following its passage and approval by the
4 Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 15-MAR-22, as amended.

Jeff Woodard
Clerk

Senate	06-APR-22	Amended and Passed
House	07-APR-22	Concurred in Senate Amendment