

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

SYNOPSIS: Under existing law, the Division of Construction Management within the Department of Finance reviews contracts and inspects for code compliance during certain construction projects at certain educational institutions.

Existing law exempts public K-12 schools and four-year universities with a constitutionally created board of trustees conducting certain capital improvement projects valued under \$500,000 from approval by the division.

This bill would extend that exemption to any K-12 school or four-year university undertaking improvements valued under \$500,000 from approval by the division, but would require inspection of exempted improvements by the division and issuance of recommendations to the school or university by the division relating to compliance with the Americans with Disabilities Act and fire safety or life safety issues.

1 This bill would also amend the reporting
2 requirements for the Division of Construction
3 Management for each project undertaken at any K-12
4 school.

5 This bill would provide a limited exception
6 for ongoing projects.

7 This bill would also make nonsubstantive,
8 technical revisions to update the existing code
9 language to current style.

10
11 A BILL
12 TO BE ENTITLED
13 AN ACT

14
15 Relating to construction of certain property; to
16 amend Sections 16-1-2.4, 16-1-2.5, 41-4-400, and 41-4-401,
17 Code of Alabama 1975, relating to construction at educational
18 facilities; to further provide for inspection of certain
19 projects at educational facilities by the Division of
20 Construction Management; to further provide for contracts
21 between educational entities and the Division of Construction
22 Management; to further provide for reports by the Division of
23 Construction Management to the Legislature; to provide a
24 limited exception for ongoing projects; and to make
25 nonsubstantive, technical revisions to update the existing
26 code language to current style.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Sections 16-1-2.4, 16-1-2.5, 41-4-400,
2 and 41-4-401, Code of Alabama 1975, as amended by Act
3 2021-476, 2021 Regular Session, are amended to read as
4 follows:

5 "§16-1-2.4.

6 "(a) Notwithstanding any provision of law to the
7 contrary, the governing board of each educational institution
8 or state educational institution, as defined in Section
9 41-4-400(d), 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 in relation to that institution:

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.

18 "(3) To set policies, procedures, and guidelines for
19 the design, construction, renovation, equipment, furnishing,
20 maintenance, and improvement of all property now owned or
21 hereafter acquired.

22 "(4) To construct, repair, equip, remodel, enlarge,
23 renovate, furnish, refurnish, improve, and locate buildings,
24 structures, and facilities.

25 "(5) To enter into contracts or consult with
26 architects, engineers, contractors, suppliers, and others as

1 needed to perform any of the functions provided for in this
2 subsection.

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

6 "(7) To charge and provide for collection of user
7 fees for its services. The fees established shall take into
8 consideration the costs of the governing board incurred under
9 this section.

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

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

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

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

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

25 "(b) (1)a. At any ~~public~~ K-12 school or at any
26 four-year public institution of higher education ~~with a~~
27 ~~constitutionally created board of trustees,~~ any capital

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

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

25 "2. The Division of Construction Management shall
26 issue its written recommendations no later than 30 days
27 following receipt of documentation pursuant to subparagraph 1.

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

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

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

21 "d. For purposes of this subdivision, "fire safety
22 and life safety compliance" means compliance with those
23 provisions of uniform minimum building standards code adopted
24 by the Division of Construction Management pursuant to law
25 that relate to risk of electrical or fire hazards, risk of
26 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); any repair or maintenance of heating, ventilation,
5 and air conditioning systems; and any roofing repair or
6 maintenance shall not be subject to approval by the governing
7 board of an educational institution or state educational
8 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~~7;~~ an educational
25 institution~~7~~ or a state educational institution, as defined in
26 Section 41-4-400(d)~~7;~~ a ~~public~~ K-12 school~~7;~~ or a four-year
27 public institution of higher education ~~with a constitutionally~~

1 ~~created board of trustees~~ may contract with the Division of
2 Construction Management within the Department of Finance for
3 any purpose.

4 "§41-4-400.

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

10 "(1) To acquire lands by purchase, condemnation, or
11 otherwise.

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

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

22 "(4) To construct, repair, equip, remodel, enlarge,
23 renovate, furnish, refurnish, improve, and locate buildings,
24 structures, and facilities for the use of the State of Alabama
25 or any of its departments, boards, bureaus, commissions,
26 agencies, and offices as in its judgment shall be necessary
27 for state, institutional, or agency purposes.

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

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

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

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

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

18 "(11) To review and administer all design and
19 construction contracts for all state-owned facilities as
20 provided for in this subsection.

21 "(12) To submit to the Director of Finance the
22 priorities and recommendations for the repair, renovation,
23 capital improvement, and planning needs of state departments,
24 boards, bureaus, commissions, agencies, and offices.

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

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

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

11 "(c) Effective October 1, 2015, the Building
12 Commission established in Section 41-9-140 is abolished. All
13 powers, authority, and jurisdiction of the Building
14 Commission, including, but not limited to, those authorities
15 currently established in Sections 16-1-2.1 and 16-1-2.2,
16 16-16-10(o)(2) and (p), 34-14B-1 to 34-14B-10, 39-2-2(f)(1),
17 41-9-160 to 41-9-165, 41-9-170 to 41-9-174, 41-9-243,
18 41-9-542, 41-10-271, 41-10-364, and 41-16-72(3)(a) through (f)
19 are hereby transferred to the Division of Construction
20 Management within the Department of Finance.

21 "(d) (1) Notwithstanding any other provision of this
22 article or any other provision of law to the contrary, the
23 powers, authority, and jurisdiction granted to the Division of
24 Construction Management within this section does not extend to
25 property which is part of an educational institution or a
26 state educational institution or any existing, planned, or
27 future ancillary improvement on that property, including, but

1 not limited to, design or construction projects either
2 partially or fully funded by the Public School and College
3 Authority. The Division of Construction Management shall
4 retain its authority to adopt uniform minimum building
5 standards code for the construction and renovation of
6 facilities at any educational institution or state educational
7 institution. For purposes of this article and Sections
8 16-1-2.4 and 16-1-2.5, "educational institution" and "state
9 educational institution" shall have the same meaning as
10 provided in Section 16-17-1, but shall not include ~~public~~ K-12
11 schools or public four-year institutions of higher education
12 ~~with constitutionally created boards of trustees.~~

13 "(2) Except as otherwise provided in subdivision
14 (1), any powers, authority, and jurisdiction granted to the
15 Division of Construction Management within this section
16 relating to an educational institution or state educational
17 institution, including, but not limited to, those relating to
18 design or construction projects either partially or fully
19 funded by the Public School and College Authority, are hereby
20 transferred to the governing board of each institution, as
21 provided in Section 16-1-2.4.

22 "(e) Notwithstanding any other provisions of this
23 article, all persons employed with the Building Commission on
24 October 1, 2015, shall be transferred to the Department of
25 Finance.

26 "§41-4-401.

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

5 "(b) No later than November 30 of each year, the
6 Division of Construction Management shall submit a report to
7 the Speaker of the House, the Speaker Pro Tempore, the
8 Lieutenant Governor, the President Pro Tempore of the Senate,
9 and the Majority Leader and Minority Leader of both the House
10 of Representatives and the Senate. The report shall include
11 all of the following, as they relate to each plan or project
12 proposal submitted to the division during the preceding fiscal
13 year relating to a public K-12 school:

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

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

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

24 "(4) For each document submitted to the division for
25 review or approval, the time elapsed between the receipt of
26 the document and the return of the document to the submitting
27 party or other appropriate response by the division."

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

7 Section 3. This act shall become effective
8 immediately following its passage and approval by the
9 Governor, or its otherwise becoming law.