

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

ENGROSSED

A BILL
TO BE ENTITLED
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

1 or state educational institution, as defined in Section
2 41-4-400(d), shall have full power and authority for, and on
3 behalf of, the State of Alabama to do any or all of the
4 following in relation to that institution:

5 "(1) To acquire lands by purchase, condemnation, or
6 otherwise.

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

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

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

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

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

25 "(7) To charge and provide for collection of user
26 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
26 alterations, additions, repair, or maintenance of heating,
27 ventilation, and air conditioning systems or any alterations,

1 additions, repair, or maintenance of a roof shall not be
2 subject to approval by the Division of Construction Management
3 within the Department of Finance; provided, that the estimated
4 cost of the project after design completion is certified by a
5 licensed architect or licensed engineer to be no more than
6 five hundred thousand dollars (\$500,000).

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

18 "2. The Division of Construction Management shall
19 issue its written recommendations no later than 30 days
20 following receipt of documentation pursuant to subparagraph 1.
21 If the division is unable to issue recommendations within the
22 30-day period following receipt of documentation, the
23 division, prior to the expiration of the 30-day period, shall
24 issue to the party that submitted the documentation a written
25 notice explaining the reasons for the delay, and shall issue
26 the recommendations no later than 45 days following the
27 original receipt of documentation pursuant to subparagraph 1.

1 "3. Recommendations issued by the division pursuant
2 to this paragraph shall be maintained by the division as
3 public writings for purposes of Article 3 of Chapter 12 of
4 Title 36.

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

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

20 "(2) Any repair or maintenance project with an
21 estimated cost certified by a licensed architect or licensed
22 engineer to be no more than five hundred thousand dollars
23 (\$500,000); any repair or maintenance of heating, ventilation,
24 and air conditioning systems; and any roofing repair or
25 maintenance shall not be subject to approval by the governing
26 board of an educational institution or state educational
27 institution.

1 "(c) All powers, authority, and jurisdiction of the
2 Division of Construction Management or the former Building
3 Commission relating to any educational institution or state
4 educational institution, including, but not limited to, those
5 authorities currently established in Sections 16-1-2.2,
6 16-16-10(o)(2) and (p), 39-2-2(f)(1), 41-9-243, and
7 41-16-72(3)(a) through (f), which were previously transferred
8 to the Division of Construction Management within the
9 Department of Finance, are transferred to the governing board
10 of that institution; provided, that the Division of
11 Construction Management shall retain its authority to adopt
12 uniform minimum building standards code for the construction
13 and renovation of facilities at any educational institution or
14 state educational institution.

15 "§16-1-2.5.

16 "The State Department of Education~~7;~~ an educational
17 institution~~7~~ or a state educational institution, as defined in
18 Section 41-4-400(d)~~7;~~ a ~~public~~ K-12 school~~7;~~ or a four-year
19 public institution of higher education ~~with a constitutionally~~
20 ~~created board of trustees~~ may contract with the Division of
21 Construction Management within the Department of Finance for
22 any purpose.

23 "§41-4-400.

24 "(a) There shall be established within the
25 Department of Finance the Division of Construction Management.
26 The division 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:

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 for state departments, boards, bureaus,
9 commissions, agencies, and offices.

10 "(3) To set policies, procedures, and guidelines for
11 the design, construction, renovation, equipment, furnishing,
12 maintenance, and improvement of all property now owned or
13 hereafter acquired by the state or any institution or agency
14 thereof.

15 "(4) To construct, repair, equip, remodel, enlarge,
16 renovate, furnish, refurnish, improve, and locate buildings,
17 structures, and facilities for the use of the State of Alabama
18 or any of its departments, boards, bureaus, commissions,
19 agencies, and offices as in its judgment shall be necessary
20 for state, institutional, or agency purposes.

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

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

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

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

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

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

14 "(12) To submit to the Director of Finance the
15 priorities and recommendations for the repair, renovation,
16 capital improvement, and planning needs of state departments,
17 boards, bureaus, commissions, agencies, and offices.

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

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

22 "(b) The Division of Construction Management shall
23 be headed by and under the supervision, direction, and control
24 of an officer who shall be designated director of construction
25 management. He or she shall be appointed, subject to the
26 provisions of the state Merit Law, by the Director of Finance,
27 with the approval of the Governor. The compensation of such

1 officer shall be fixed in accordance with the pay plan of the
2 state Merit System.

3 "(c) Effective October 1, 2015, the Building
4 Commission established in Section 41-9-140 is abolished. All
5 powers, authority, and jurisdiction of the Building
6 Commission, including, but not limited to, those authorities
7 currently established in Sections 16-1-2.1 and 16-1-2.2,
8 16-16-10(o)(2) and (p), 34-14B-1 to 34-14B-10, 39-2-2(f)(1),
9 41-9-160 to 41-9-165, 41-9-170 to 41-9-174, 41-9-243,
10 41-9-542, 41-10-271, 41-10-364, and 41-16-72(3)(a) through (f)
11 are hereby transferred to the Division of Construction
12 Management within the Department of Finance.

13 "(d) (1) Notwithstanding any other provision of this
14 article or any other provision of law to the contrary, the
15 powers, authority, and jurisdiction granted to the Division of
16 Construction Management within this section does not extend to
17 property which is part of an educational institution or a
18 state educational institution or any existing, planned, or
19 future ancillary improvement on that property, including, but
20 not limited to, design or construction projects either
21 partially or fully funded by the Public School and College
22 Authority. The Division of Construction Management shall
23 retain its authority to adopt uniform minimum building
24 standards code for the construction and renovation of
25 facilities at any educational institution or state educational
26 institution. For purposes of this article and Sections
27 16-1-2.4 and 16-1-2.5, "educational institution" and "state

1 educational institution" shall have the same meaning as
2 provided in Section 16-17-1, but shall not include ~~public~~ K-12
3 schools or public four-year institutions of higher education
4 ~~with constitutionally created boards of trustees.~~

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

14 "(e) Notwithstanding any other provisions of this
15 article, all persons employed with the Building Commission on
16 October 1, 2015, shall be transferred to the Department of
17 Finance.

18 "§41-4-401.

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

23 "(b) No later than November 30 of each year, the
24 Division of Construction Management shall submit a report to
25 the Speaker of the House, the Speaker Pro Tempore, the
26 Lieutenant Governor, the President Pro Tempore of the Senate,
27 and the Majority Leader and Minority Leader of both the House

1 of Representatives and the Senate. The report shall include
2 all of the following, as they relate to each plan or project
3 proposal submitted to the division during the preceding fiscal
4 year relating to a public K-12 school:

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

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

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

15 "(4) For each document submitted to the division for
16 review or approval, the time elapsed between the receipt of
17 the document and the return of the document to the submitting
18 party or other appropriate response by the division."

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

25 Section 3. The amendatory language of this act as it
26 amends Sections 16-1-2.4, 16-1-2.5, and 41-4-400, Code of
27 Alabama 1975, shall not apply to any member institution of the

1 Alabama Community College System, any trade school, or any
2 properties or facilities of the State Parks Division of the
3 Department of Conservation and Natural Resources.

4 Section 4. This act shall become effective
5 immediately following its passage and approval by the
6 Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and
referred to the House of Represen-
tatives committee on Education Pol-
icy..... 01-MAR-22

Read for the second time and placed
on the calendar 1 amendment 09-MAR-22

Read for the third time and passed
as amended..... 15-MAR-22

Yeas 97, Nays 3, Abstains 0

Jeff Woodard
Clerk