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3 SENATE GOVERNMENTAL AFFAIRS COMMITTEE SUBSTITUTE FOR HB220
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8 SYNOPSIS: Under current law, the Division of
9 Construction Management within the Department of
10 Finance is tasked with oversight of certain aspects
11 of state, municipal, and educational property
12 management that was previously delegated to the
13 Building Commission. Particularly, the Division of
14 Construction Management oversees the construction
15 and renovation of state, municipal, and certain
16 educational property, from the bidding process to
17 construction administration.

18 This bill would provide that the governing
19 board of each educational institution or state
20 educational institution shall oversee the
21 construction and renovation of state property as it
22 relates to each institution, except that the
23 Division of Construction Management shall continue
24 to oversee construction and renovation of state
25 property relating to public K-12 schools and public
26 institutions of higher education with
27 constitutionally created boards of trustees.

1 This bill would require the Division of
2 Construction Management to provide for the
3 electronic submission and signing of documents, and
4 to make annual reports to the Legislature.

5
6 A BILL
7 TO BE ENTITLED
8 AN ACT

9
10 Relating to state property; to amend Sections
11 41-4-400 and 41-4-353, Code of Alabama 1975, to further
12 provide for the authority of the Division of Construction
13 Management; to provide that the governing boards of certain
14 educational institutions and state educational institutions
15 have authority to manage the construction and renovation of
16 property as it relates to each institution; to require the
17 Division of Construction Management to provide for the
18 electronic submission and signing of documents; to require the
19 Division of Construction Management to make annual reports to
20 the Legislature; and to amend Section 16-1-2.2, Code of
21 Alabama 1975, to provide that safe spaces or hallways at
22 higher education institutions be rated for tornadoes.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. Sections 41-4-400 and 41-4-353, Code of
25 Alabama 1975, are amended to read as follows:

26 "§41-4-400.

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

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

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

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

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

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

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

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

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

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

14 "(10) To ~~promulgate~~ adopt uniform standards for the
15 construction and renovation of all state-owned facilities.

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

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

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

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

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

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

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

1 Authority; provided, that the Division of Construction
2 Management shall retain its authority to adopt uniform minimum
3 building standards code for the construction and renovation of
4 facilities at any educational institution or state educational
5 institution. For purposes of this article and Sections 2 and 5
6 of the act adding this amendatory language, "educational
7 institution" and "state educational institution" shall have
8 the same meaning as provided in Section 16-17-1, but shall not
9 include public K-12 schools or public institutions of higher
10 education with constitutionally created boards of trustees.

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

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

25 "§41-4-353.

26 "(a) All real property owned or leased by state
27 departments, boards, bureaus, commissions, agencies, offices,

1 and other instruments of the state is subject to the
2 requirements of this article and in Sections 41-4-2, 41-4-3,
3 41-4-261, and 41-9-141 except:

4 "(1) All educational facilities including K-12,
5 postsecondary, and higher education facilities.

6 "(2) Facilities of the Legislative Branch of
7 government.

8 "(3) Facilities of the Judicial Branch of
9 government.

10 "(4) Facilities of the Retirement Systems of
11 Alabama.

12 "(5) Facilities of the Alabama Port Authority.

13 "(6) Facilities of the State Military Department.

14 "(7) Lands managed by the Lands Division of the
15 Department of Conservation and Natural Resources.

16 "(8) Right-of-way owned by the Department of
17 Transportation.

18 "(9) Gulf State Park.

19 "(10) Facilities and real property owned or leased
20 by departments, boards, bureaus, commissions, agencies,
21 offices, and other instruments of the state that do not
22 receive any appropriation of state funds.

23 "(11) Any real property, building, improvement, or
24 facility managed or controlled by a state agency, if adherence
25 with any requirement of this article would violate Sections
26 9-2-26 or 9-11-19, or any federal laws, regulations, or

1 guidance, including, but not limited to, Title 50, Code of
2 Federal Regulations, Part 80.

3 "(12) Any unimproved real property owned, leased, or
4 otherwise possessed or controlled by the state or any
5 department, board, bureau, commission, agency, office, or
6 other instrument of the state.

7 "(13) Real property owned or leased by the Alabama
8 Home Builders Licensure Board, the Alabama Housing Finance
9 Authority, the Alabama Plumbers and Gas Fitters Examining
10 Board, the Alabama Board of Heating, Air Conditioning, and
11 Refrigeration Contractors, the Alabama Real Estate Commission,
12 and the State Licensing Board for General Contractors.

13 "(14) Other real property owned or leased by state
14 departments, boards, bureaus, commissions, agencies, offices,
15 and other instruments of the state if the exemption is agreed
16 to by both the Director of Finance and the head of the state
17 department, board, bureau, commission, agency, office, or
18 other instrument of the state seeking the exemption and the
19 exemption is found by them to be in the best interest of the
20 State of Alabama.

21 "(15) Real property owned or leased by self-funded
22 licensing and regulatory boards, commissions, and agencies.

23 "(b) Any entity that is provided an exception from
24 the requirements of this article under subsection (a) may
25 elect to waive that exception and have its real property and
26 facilities become subject to the provisions of this article by
27 providing written notice of that election to the Director of

1 Finance. Once an entity waives its exception, the entity may
2 not rescind that waiver with respect to any real property or
3 facilities that become subject to the provisions of this
4 article as a result of the entity's waiver.

5 "(c) The exceptions provided in subsection (a) do
6 not alter or affect any of the provisions for compliance with
7 a minimum building standards code or energy conservation
8 building code as required by Sections 41-9-160 to 41-9-165 and
9 Sections 41-9-171 to 41-9-174.

10 "(d) The exceptions provided in subsection (a)(1) do
11 not alter or affect the compliance of educational facilities
12 with the contract forms and procedures of the Division of
13 Construction Management or the governing board of the
14 applicable educational institution or state educational
15 institution, as provided in Section 41-4-400."

16 Section 2. (a) Notwithstanding any provision of law
17 to the contrary, the governing board of each educational
18 institution or state educational institution shall have full
19 power and authority for, and on behalf of, the State of
20 Alabama to do any or all of the following in relation to that
21 institution:

22 (1) To acquire lands by purchase, condemnation, or
23 otherwise.

24 (2) To plan for the construction, repair,
25 remodeling, enlargement, renovation, furnishing, refurnishing,
26 improvement, or relocation of buildings, structures, and
27 facilities.

1 (3) To set policies, procedures, and guidelines for
2 the design, construction, renovation, equipment, furnishing,
3 maintenance, and improvement of all property now owned or
4 hereafter acquired.

5 (4) To construct, repair, equip, remodel, enlarge,
6 renovate, furnish, refurnish, improve, and locate buildings,
7 structures, and facilities.

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

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

15 (7) To charge and provide for collection of user
16 fees for its services. The fees established shall take into
17 consideration the costs of the governing board incurred under
18 this section.

19 (8) To make and adopt all necessary rules,
20 regulations, and plans for its own guidance and for the proper
21 conduct of the duties imposed upon it.

22 (9) To review and approve or disapprove all proposed
23 construction, renovation, or improvement projects for
24 constructability, durability, and maintainability and to
25 ensure the efficient use and availability of funds.

1 (10) To review and administer all design and
2 construction contracts for facilities as provided for in this
3 subsection.

4 (11) To review all emergency project declarations
5 and to aid in the timely execution of emergency projects.

6 (12) To hire architects, inspectors, and any other
7 personnel necessary for the purposes provided for in this
8 subsection or the duties assigned under this section.

9 (b) (1)a. At any public K-12 school or at any public
10 institution of higher education with a constitutionally
11 created board of trustees, any capital improvement project
12 with an estimated cost certified by a licensed architect or
13 licensed engineer to be no more than five hundred thousand
14 dollars (\$500,000); any repair or maintenance of heating,
15 ventilation, and air conditioning systems; and any roofing
16 repair or maintenance shall not be subject to approval by the
17 Division of Construction Management within the Department of
18 Finance.

19 b. The State Department of Education shall develop
20 and distribute forms relating to projects subject to this
21 subdivision for use by local boards of education. The
22 department shall ensure that these forms do not require use of
23 Division of Construction Management services for projects
24 subject to this subdivision.

25 (2) Any repair or maintenance project with an
26 estimated cost certified by a licensed architect or licensed
27 engineer to be no more than five hundred thousand dollars

1 (\$500,000); any repair or maintenance of heating, ventilation,
2 and air conditioning systems; and any roofing repair or
3 maintenance shall not be subject to approval by the governing
4 board of an educational institution or state educational
5 institution.

6 (c) All powers, authority, and jurisdiction of the
7 Division of Construction Management or the former Building
8 Commission relating to any educational institution or state
9 educational institution, including, but not limited to, those
10 authorities currently established in Sections 16-1-2.2,
11 16-16-10(o)(2) and (p), 39-2-2(f)(1), 41-9-243, and
12 41-16-72(3)(a) through (f), Code of Alabama 1975, which were
13 previously transferred to the Division of Construction
14 Management within the Department of Finance, are transferred
15 to the governing board of that institution; provided, that the
16 Division of Construction Management shall retain its authority
17 to adopt uniform minimum building standards code for the
18 construction and renovation of facilities at any educational
19 institution or state educational institution.

20 Section 3. (a) The Division of Construction
21 Management within the Department of Finance shall provide for
22 the submission and signing of documents via electronic means,
23 at no additional cost to the party submitting or signing the
24 document.

25 (b) No later than November 30 of each year, the
26 Division of Construction Management shall submit a report to
27 the Speaker of the House, the Speaker Pro Tempore, the

1 Lieutenant Governor, the President Pro Tempore of the Senate,
2 and the Majority Leader and Minority Leader of both the House
3 of Representatives and the Senate. The report shall include
4 all of the following, as they relate to each plan or project
5 proposal submitted to the division during the preceding fiscal
6 year relating to a public K-12 school:

7 (1) The name of the public K-12 school at which the
8 project will take place.

9 (2) The final cost of the project.

10 (3) Any increase in cost of a project due to any
11 requirement of or change to the plan or proposal requested by
12 the division, and the reason for that increase.

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

17 Section 4. Section 16-1-2.2, Code of Alabama 1975,
18 is amended to read as follows:

19 "§16-1-2.2.

20 "(a) Commencing on August 1, 2012, any new contract
21 awarded for the construction of a new building, containing
22 classrooms or dorm rooms, on the grounds of a public two-year
23 or four-year institution of higher education shall include ~~an~~
24 ~~Alabama Building Commission~~ a Division of Construction
25 Management approved safe space or hallway rated for tornadoes.

26 "(b) The State Department of Postsecondary Education
27 and the separate boards of trustees of the four-year

1 institutions of higher education in the state shall coordinate
2 with the ~~Alabama Building Commission~~ Division of Construction
3 Management to develop, promulgate, and enforce any rules
4 necessary for the implementation of this section."

5 Section 5. The State Department of Education, an
6 educational institution, a state educational institution, a
7 public K-12 school, or a public institution of higher education
8 with a constitutionally created board of trustees may contract
9 with the Division of Construction Management within the
10 Department of Finance for any purpose.

11 Section 6. Nothing in this act shall eliminate or
12 otherwise diminish the authority of the state Fire Marshal or
13 his or her assistants, as defined by Section 36-19-3, Code of
14 Alabama 1975, or a local fire marshal to conduct property
15 inspections.

16 Section 7. Nothing in this act shall revoke, limit,
17 or otherwise diminish any existing state law or rule requiring
18 that design professionals, including professional engineers,
19 land surveyors, and architects, be used to provide project
20 design and oversight for any project currently being reviewed
21 and inspected by the Department of Construction Management.
22 The project design oversight transferred to any entity
23 pursuant to this act shall continue to meet all applicable
24 state, local, and federal codes, laws, and regulations.

25 Section 8. This act shall become effective on the
26 first day of the third month following its passage and
27 approval by the Governor, or its otherwise becoming law.

