

1 HB220  
2 204296-3  
3 By Representatives Ledbetter, Sells, Shaver, Smith, Estes,  
4 Collins, Ball, Reynolds, Brown (K), Isbell, Moore (P), Ingram,  
5 Stadthagen, Kitchens, Marques, Pettus, Robertson, Sorrells,  
6 Shiver, Baker, Fincher and Shedd  
7 RFD: State Government  
8 First Read: 02-FEB-21  
9 PFD: 01/29/2021

1 ENGROSSED

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3  
4 A BILL  
5 TO BE ENTITLED  
6 AN ACT  
7

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

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

24 "§41-4-400.

25 "(a) There shall be established within the  
26 Department of Finance the Division of Construction Management.  
27 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 contract 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 ~~moneys~~ monies, land, or  
26       equipment donated, appropriated, or otherwise acquired by it  
27       for the 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           "(10) To ~~promulgate~~ adopt uniform standards for the  
12 construction and renovation of all state-owned facilities.

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

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

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

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

24           "(b) The Division of Construction Management shall  
25 be headed by and under the supervision, direction, and control  
26 of an officer who shall be designated director of construction  
27 management. He or she shall be appointed, subject to the

1 provisions of the state Merit Law, by the Director of Finance,  
2 with the approval of the Governor. The compensation of such  
3 officer shall be fixed in accordance with the pay plan of the  
4 state Merit System.

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

15 "(d) (1) Notwithstanding any other provision of this  
16 article or any other provision of law to the contrary, the  
17 powers, authority, and jurisdiction granted to the Division of  
18 Construction Management within this section does not extend to  
19 property which is part of an educational institution or a  
20 state educational institution, both as defined by Section  
21 16-17-1, or any existing, planned, or future ancillary  
22 improvement on that property.

23 For purposes of this article and Sections 2 and 5 of  
24 the act adding this amendatory language, "educational  
25 institution" and "state educational institution" shall have  
26 the same meaning as provided in Section 16-17-1, but shall not

1 include public K-12 schools or public institutions of higher  
2 education with constitutionally created boards of trustees.

3 ~~"(2)a. Any powers, authority, and jurisdiction~~  
4 ~~granted to the Division of Construction Management within this~~  
5 ~~section relating to K-12 public schools is hereby transferred~~  
6 ~~to the Department of Education, as provided in Section 2 of~~  
7 ~~the act adding this amendatory language.~~

8 ~~"b. Any powers, authority, and jurisdiction granted~~  
9 ~~to the Division of Construction Management within this section~~  
10 ~~relating to a public postsecondary institution or public~~  
11 ~~institutions of higher education is hereby transferred to the~~  
12 ~~governing board of each institution, as provided in Section 2~~  
13 ~~of the act adding this amendatory language.~~

14 "(2) Any powers, authority, and jurisdiction granted  
15 to the Division of Construction Management within this section  
16 relating to an educational institution or state educational  
17 institution is hereby transferred to the governing board of  
18 each institution, as provided in Section 2 of the act adding  
19 this amendatory language.

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

24 "§41-4-353.

25 "(a) All real property owned or leased by state  
26 departments, boards, bureaus, commissions, agencies, offices,  
27 and other instruments of the state is subject to the

1 requirements of this article and in Sections 41-4-2, 41-4-3,  
2 41-4-261, and 41-9-141 except:

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

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

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

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

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

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

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

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

17 "(9) Gulf State Park.

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

22 "(11) Any real property, building, improvement, or  
23 facility managed or controlled by a state agency, if adherence  
24 with any requirement of this article would violate Sections  
25 9-2-26 or 9-11-19, or any federal laws, regulations, or  
26 guidance, including, but not limited to, Title 50, Code of  
27 Federal Regulations, Part 80.

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

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

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

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

21           "(b) Any entity that is provided an exception from  
22 the requirements of this article under subsection (a) may  
23 elect to waive that exception and have its real property and  
24 facilities become subject to the provisions of this article by  
25 providing written notice of that election to the Director of  
26 Finance. Once an entity waives its exception, the entity may  
27 not rescind that waiver with respect to any real property or



1 facilities that become subject to the provisions of this  
2 article as a result of the entity's waiver.

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

8 "(d) The exceptions provided in subsection (a) (1)  
9 do not alter or affect the compliance of educational  
10 facilities with the contract forms and procedures of the  
11 ~~Division of Construction Management Department of Education or~~  
12 ~~the governing board of the postsecondary institution or public~~  
13 ~~institution of higher education, as provided in Section~~  
14 ~~41-4-400."~~ Division of Construction Management or the  
15 governing board of the applicable educational institution or  
16 state educational institution, as provided in Section  
17 41-4-400."

18 Section 2. ~~(a) Notwithstanding any provision of law~~  
19 ~~to the contrary, the Department of Education shall have full~~  
20 ~~power and authority for, and on behalf of, the State of~~  
21 ~~Alabama to do any or all of the following in relation to a~~  
22 ~~K-12 public school, and the governing board of each public~~  
23 ~~postsecondary institution and public institution of higher~~  
24 ~~education shall have full power authority for, and on behalf~~

25 Notwithstanding any provision of law to the  
26 contrary, the governing board of each educational institution  
27 or state educational institution shall have full power and

1 authority for, and on behalf of, the State of Alabama to do  
2 any or all of the following in relation to that ~~educational~~  
3 institution:

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

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

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.

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

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

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

24 (7) To charge and provide for collection of user  
25 fees for its services. The fees established shall take into  
26 consideration the costs of the ~~department or~~ governing board  
27 incurred under this section.

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

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

8           ~~(10) With regard to K-12 public schools, the~~  
9 ~~department may adopt uniform standards for the construction~~  
10 ~~and renovation of K-12 public schools; with regard to any~~  
11 ~~public postsecondary institution or public institution of~~  
12 ~~higher education, the governing board of that institution may~~  
13 ~~adopt uniform standards for construction and renovation of~~  
14 ~~facilities on property belonging to that state educational~~  
15 ~~institution.~~

16           (10) With regard to any educational institution or  
17 state educational institution, the governing board of that  
18 institution may adopt uniform standards for the construction  
19 and renovation of facilities on property belonging to that  
20 institution.

21           (11) To review and administer all design and  
22 construction contracts for facilities as provided for in this  
23 subsection.

24           (12) To review all emergency project declarations  
25 and to aid in the timely execution of emergency projects.

1           (13) To hire architects, inspectors, and any other  
2 personnel necessary for the purposes provided for in this  
3 subsection or the duties assigned under this section.

4           (b) (1) Any ~~repair or maintenance~~ capital improvement  
5 project with an estimated cost certified by a licensed  
6 architect or licensed engineer to be no more than five hundred  
7 thousand dollars (\$500,000); any repair or maintenance of  
8 heating, ventilation, and air conditioning systems; and any  
9 roofing repair or maintenance shall not be subject to approval  
10 by the ~~department~~ Division of Construction Management within  
11 the Department of Finance.

12           (2) Any repair or maintenance project with an  
13 estimated cost certified by a licensed architect or licensed  
14 engineer to be no more than five hundred thousand dollars  
15 (\$500,000); any repair or maintenance of heating, ventilation,  
16 and air conditioning systems; and any roofing repair or  
17 maintenance shall not be subject to approval by the governing  
18 ~~board of each public postsecondary institution and public~~  
19 ~~institution of higher education.~~

20           ~~(c) (1) All powers, authority, and jurisdiction of~~  
21 ~~the former Building Commission relating to K-12 public~~  
22 ~~schools, including, but not limited to, those authorities~~  
23 ~~currently established in Sections 16-1-2.1, 16-16-10(o) (2)~~  
24 ~~and (p), 39-2-2(f) (1), 41-9-160 to 41-9-165, 41-9-170 to~~  
25 ~~41-9-174, 41-9-243, and 41-16-72(3) (a) through (f), Code of~~  
26 ~~Alabama 1975, which were previously transferred to the~~

1 ~~Division of Construction Management within the Department of~~  
2 ~~Finance, are transferred to the Department of Education.~~

3 ~~(2) All powers, authority, and jurisdiction of the~~  
4 ~~former Building Commission relating to any public~~  
5 ~~postsecondary institution or public institution of higher~~  
6 ~~education, including, but not limited to, those authorities~~  
7 ~~currently established in Sections 16-1-2.2, 16-16-10(o) (2) and~~  
8 ~~(p), 39-2-2(f) (1), 41-9-160 to 41-9-165, 41-9-170 to 41-9-174,~~  
9 ~~41-9-243, and 41-16-72(3) (a) through (f), Code of Alabama~~  
10 ~~1975, which were previously transferred to the Division of~~  
11 ~~Construction Management within the Department of Finance, are~~  
12 ~~transferred to the governing board of that institution.~~

13 board of an educational institution or state  
14 educational institution.

15 (c) All powers, authority, and jurisdiction of the  
16 Division of Construction Management or the former Building  
17 Commission relating to any educational institution or state  
18 educational institution, including, but not limited to, those  
19 authorities currently established in Sections 16-1-2.2,  
20 16-16-10(o) (2) and (p), 39-2-2(f) (1), 41-9-160 to 41-9-165,  
21 41-9-170 to 41-9-174, 41-9-243, and 41-16-72(3) (a) through  
22 (f), Code of Alabama 1975, which were previously transferred  
23 to the Division of Construction Management within the  
24 Department of Finance, are transferred to the governing board  
25 of that institution.

26 Section 3. (a) The Division of Construction  
27 Management within the Department of Finance shall provide for

1 the submission and signing of documents via electronic means,  
2 at no additional cost to the party submitting or signing the  
3 document.

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

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

15 (2) The final cost of the project.

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

19 (4) For each document submitted to the division for  
20 review or approval, the time elapsed between the receipt of  
21 the document and the return of the document to the submitting  
22 party or other appropriate response by the division.

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

25 "§16-1-2.2.

26 "(a) Commencing on August 1, 2012, any new contract  
27 awarded for the construction of a new building, containing

1 classrooms or dorm rooms, on the grounds of a public two-year  
2 or four-year institution of higher education shall include an  
3 Alabama Building Commission Division of Construction  
4 Management approved safe space or hallway rated for tornadoes.

5 "(b) The State Department of Postsecondary Education  
6 and the separate boards of trustees of the four-year  
7 institutions of higher education in the state shall coordinate  
8 with the Alabama Building Commission Division of Construction  
9 Management to develop, adopt, and enforce any rules necessary  
10 for the implementation of this section."

11 Section 5. An educational institution or state  
12 educational institution may contract with the Division of  
13 Construction Management within the Department of Finance for  
14 any purpose.

15 Section 6. Nothing in this act shall eliminate or  
16 otherwise diminish the authority of a municipality to conduct  
17 property inspections.

18 Section 7. This act shall become effective on the  
19 first day of the third month following its passage and  
20 approval by the Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-  
ferred to the House of Representa-  
tives committee on State Government  
..... 02-FEB-21

Read for the second time and placed  
on the calendar..... 10-FEB-21

Read for the third time and passed  
as amended..... 25-FEB-21

Yeas 96, Nays 1, Abstains 0

Jeff Woodard  
Clerk