

1 HB220
2 212716-4
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

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ENROLLED, An Act,

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§41-4-400.

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

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

3 "(2) To plan for the construction, repair,
4 remodeling, enlargement, renovation, furnishing, refurnishing,
5 improvement, or relocation of buildings, structures, and
6 facilities for state departments, boards, bureaus,
7 commissions, agencies, and offices.

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

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

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

23 "(6) To receive any ~~moneys~~ monies, land, or
24 equipment donated, appropriated, or otherwise acquired by it
25 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

1 of an officer who shall be designated director of construction
2 management. He or she shall be appointed, subject to the
3 provisions of the state Merit Law, by the Director of Finance,
4 with the approval of the Governor. The compensation of such
5 officer shall be fixed in accordance with the pay plan of the
6 state Merit System.

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

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

1 "(a) All real property owned or leased by state
2 departments, boards, bureaus, commissions, agencies, offices,
3 and other instruments of the state is subject to the
4 requirements of this article and in Sections 41-4-2, 41-4-3,
5 41-4-261, and 41-9-141 except:

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

8 "(2) Facilities of the Legislative Branch of
9 government.

10 "(3) Facilities of the Judicial Branch of
11 government.

12 "(4) Facilities of the Retirement Systems of
13 Alabama.

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

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

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

18 "(8) Right-of-way owned by the Department of
19 Transportation.

20 "(9) ~~Gulf State Park~~ Facilities of the State Parks
21 Division of the Department of Conservation and Natural
22 Resources.

23 "(10) Facilities and real property owned or leased
24 by departments, boards, bureaus, commissions, agencies,

1 offices, and other instruments of the state that do not
2 receive any appropriation of state funds.

3 "(11) Any real property, building, improvement, or
4 facility managed or controlled by a state agency, if adherence
5 with any requirement of this article would violate Sections
6 9-2-26 or 9-11-19, or any federal laws, regulations, or
7 guidance, including, but not limited to, Title 50, Code of
8 Federal Regulations, Part 80.

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

13 "(13) Real property owned or leased by the Alabama
14 Home Builders Licensure Board, the Alabama Housing Finance
15 Authority, the Alabama Plumbers and Gas Fitters Examining
16 Board, the Alabama Board of Heating, Air Conditioning, and
17 Refrigeration Contractors, the Alabama Real Estate Commission,
18 and the State Licensing Board for General Contractors.

19 "(14) Other real property owned or leased by state
20 departments, boards, bureaus, commissions, agencies, offices,
21 and other instruments of the state if the exemption is agreed
22 to by both the Director of Finance and the head of the state
23 department, board, bureau, commission, agency, office, or
24 other instrument of the state seeking the exemption and the

1 exemption is found by them to be in the best interest of the
2 State of Alabama.

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

5 "(b) Any entity that is provided an exception from
6 the requirements of this article under subsection (a) may
7 elect to waive that exception and have its real property and
8 facilities become subject to the provisions of this article by
9 providing written notice of that election to the Director of
10 Finance. Once an entity waives its exception, the entity may
11 not rescind that waiver with respect to any real property or
12 facilities that become subject to the provisions of this
13 article as a result of the entity's waiver.

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

19 "(d) The exceptions provided in subsection (a) (1) do
20 not alter or affect the compliance of educational facilities
21 with the contract forms and procedures of the Division of
22 Construction Management or the governing board of the
23 applicable educational institution or state educational
24 institution, as provided in Section 41-4-400."

1 Section 2. (a) Notwithstanding any provision of law
2 to the contrary, the governing board of each educational
3 institution or state educational institution shall have full
4 power and authority for, and on behalf of, the State of
5 Alabama to do any or all of the following in relation to that
6 institution:

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

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

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.

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

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

1 (6) To receive any monies, land, or equipment
2 donated, appropriated, or otherwise acquired by it for the
3 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 the governing board incurred under
7 this section.

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

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

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

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

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

23 (b) (1)a. At any public K-12 school or at any public
24 institution of higher education with a constitutionally
25 created board of trustees, any capital improvement project

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

8 b. The State Department of Education shall develop
9 and distribute forms relating to projects subject to this
10 subdivision for use by local boards of education. The
11 department shall ensure that these forms do not require use of
12 Division of Construction Management services for projects
13 subject to this subdivision.

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

22 (c) All powers, authority, and jurisdiction of the
23 Division of Construction Management or the former Building
24 Commission relating to any educational institution or state
25 educational institution, including, but not limited to, those

1 authorities currently established in Sections 16-1-2.2,
2 16-16-10(o)(2) and (p), 39-2-2(f)(1), 41-9-243, and
3 41-16-72(3)(a) through (f), Code of Alabama 1975, which were
4 previously transferred to the Division of Construction
5 Management within the Department of Finance, are transferred
6 to the governing board of that institution; provided, that the
7 Division of Construction Management shall retain its authority
8 to adopt uniform minimum building standards code for the
9 construction and renovation of facilities at any educational
10 institution or state educational institution.

11 Section 3. (a) The Division of Construction
12 Management within the Department of Finance shall provide for
13 the submission and signing of documents via electronic means,
14 at no additional cost to the party submitting or signing the
15 document.

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

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

3 (2) The final cost of the project.

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

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

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

13 "§16-1-2.2.

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

20 "(b) The State Department of Postsecondary Education
21 and the separate boards of trustees of the four-year
22 institutions of higher education in the state shall coordinate
23 with the ~~Alabama Building Commission~~ Division of Construction
24 Management to develop, promulgate, and enforce any rules
25 necessary for the implementation of this section."

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

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

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

21 ~~Section 8. This act shall become effective on the~~
22 ~~first day of the third month following its passage and~~
23 ~~approval by the Governor, or its otherwise becoming law.~~

24 (a) There is established the House Bill 220 Study
25 Group comprised of the following members:

1 "(1) One member appointed by the Governor.

2 "(2) Two members of the House of Representatives
3 appointed by the Speaker of the House of Representatives, one
4 of whom shall be a member of the minority party.

5 "(3) Two members of the Senate appointed by the
6 President Pro Tempore of the Senate, one of whom shall be a
7 member of the minority party.

8 "(4) One member appointed by the State
9 Superintendent of Education.

10 "(5) One member appointed by the Association of
11 School Superintendents of Alabama.

12 "(6) One member appointed by the Alabama Association
13 of Fire Chiefs.

14 "(7) One member appointed by the American Council of
15 Engineering Companies of Alabama.

16 "(8) One member appointed by the Associated Builders
17 and Contractors of Alabama.

18 "(9) One member appointed by the Alabama Council of
19 the American Institute of Architects.

20 "(10) One member appointed by the Alabama Associated
21 General Contractors of America.

22 "(b) The first meeting of the study group shall
23 occur not later than July 15, 2021. At the first meeting, the
24 study group shall elect a chair and vice-chair. Members may
25 participate by telephone, video conference, or by similar

1 communications equipment so that all individuals participating
2 in the meeting may hear each other at the same time.

3 Participating by such means shall constitute presence in
4 person at a meeting for all purposes. Notice of meetings shall
5 be provided in accordance with the Alabama Open Meetings Act,
6 and telephone or video conference or similar communications
7 equipment shall also allow all members of the public the
8 opportunity to simultaneously listen to or observe such
9 meetings.

10 "(c) Non-legislative appointees who are not state
11 employees shall receive the same per diem and travel allowance
12 as is paid by law to state employees for each day actively
13 engaged in the duties of their office. Legislative members of
14 the study group shall be entitled to their regular legislative
15 compensation, per diem, and travel expenses each day they
16 attend a meeting of the study group in accordance with
17 Amendment 871 to the Constitution of Alabama of 1901, now
18 appearing as Section 49.01 of the Official Recompilation of
19 the Constitution of Alabama of 1901, as amended. These
20 payments shall be paid out of any funds appropriated for the
21 use of the Legislature by means of warrants drawn by the
22 Comptroller on the State Treasury.

23 "(d) The study group shall do all of the following:

24 "(1) Schedule and hold a minimum of two meetings
25 including public hearings to hear from individuals,

1 organizations, and stakeholders who have interests or concerns
2 regarding the construction, maintenance, and renovation of
3 publicly owned buildings in the state.

4 "(2) Examine federal laws and regulations and other
5 states' laws and legislation, as well as the laws of this
6 state, relating to the construction of publicly owned
7 buildings and oversight thereof. The study group shall
8 specifically consider issues relating to building codes, life
9 safety requirements, and any other issues relevant to the
10 construction, maintenance, and renovation of publicly owned
11 buildings.

12 "(3) Make recommendations to the Governor and the
13 Legislature relating to the construction, maintenance, and
14 renovation of publicly owned buildings in the state. These
15 recommendations shall include, but are not limited to, best
16 practices in public works from other jurisdictions, policies
17 and procedures to ensure public safety and to ensure
18 uniformity in construction, procedures for an orderly
19 implementation of this bill across multiple agencies, and
20 necessary revisions to this bill. The study group shall report
21 its findings and draft legislation to the Governor, the
22 Speaker of the House, and the President Pro Tempore of the
23 Senate by December 1, 2021.

1 "(e) The study group shall be dissolved on the last
2 day of the 2022 Regular Session, unless extended by act of the
3 Legislature.

4 Section 9. This act shall become effective on
5 February 1, 2022, following its passage and approval by the
6 Governor or its otherwise becoming law; provided, however,
7 that Section 8 of this act shall become effective immediately
8 and all provisions of the act that effect a change in law as
9 to the Alabama Community College System shall become effective
10 on the first day of the third month following its passage and
11 approval by the 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 25-FEB-21, as amended and was
passed again as amended by Executive Amendment 17-MAY-21.
Yeas 95, Nays 0, Abstains 0

Jeff Woodard
Clerk

Senate	29-APR-21	Passed
Senate	17-MAY-21	Passed, as amended by Executive Amendment Yeas 29, Nays 0, Ab- stains 0
