

1 HB220  
2 204296-4  
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, both as defined by Section  
23 16-17-1, or any existing, planned, or future ancillary  
24 improvement on that property.

1           For purposes of this article and Sections 2 and 5 of  
 2 the act adding this amendatory language, "educational  
 3 institution" and "state educational institution" shall have  
 4 the same meaning as provided in Section 16-17-1, but shall not  
 5 include public K-12 schools or public institutions of higher  
 6 education with constitutionally created boards of trustees.

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

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

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

24           ~~"(d)~~ (e) Notwithstanding any other provisions of  
 25 this article, all persons employed with the Building

1 Commission on October 1, 2015, shall be transferred to the  
2 Department of Finance."

3 "§41-4-353.

4 "(a) All real property owned or leased by state  
5 departments, boards, bureaus, commissions, agencies, offices,  
6 and other instruments of the state is subject to the  
7 requirements of this article and in Sections 41-4-2, 41-4-3,  
8 41-4-261, and 41-9-141 except:

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

11 "(2) Facilities of the Legislative Branch of  
12 government.

13 "(3) Facilities of the Judicial Branch of  
14 government.

15 "(4) Facilities of the Retirement Systems of  
16 Alabama.

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

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

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

21 "(8) Right-of-way owned by the Department of  
22 Transportation.

23 "(9) Gulf State Park.

24 "(10) Facilities and real property owned or leased  
25 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)  
20 do not alter or affect the compliance of educational  
21 facilities with the contract forms and procedures of the  
22 ~~Division of Construction Management Department of Education or~~  
23 ~~the governing board of the postsecondary institution or public~~  
24 ~~institution of higher education, as provided in Section~~  
25 ~~41-4-400."~~ Division of Construction Management or the

1 governing board of the applicable educational institution or  
 2 state educational institution, as provided in Section  
 3 41-4-400."

4 Section 2. ~~(a) Notwithstanding any provision of law~~  
 5 ~~to the contrary, the Department of Education shall have full~~  
 6 ~~power and authority for, and on behalf of, the State of~~  
 7 ~~Alabama to do any or all of the following in relation to a~~  
 8 ~~K-12 public school, and the governing board of each public~~  
 9 ~~postsecondary institution and public institution of higher~~  
 10 ~~education shall have full power authority for, and on behalf~~

11 Notwithstanding any provision of law to the  
 12 contrary, the governing board of each educational institution  
 13 or state educational institution shall have full power and  
 14 authority for, and on behalf of, the State of Alabama to do  
 15 any or all of the following in relation to that educational  
 16 institution:

17 (1) To acquire lands by purchase, condemnation, or  
 18 otherwise.

19 (2) To plan for the construction, repair,  
 20 remodeling, enlargement, renovation, furnishing, refurnishing,  
 21 improvement, or relocation of buildings, structures, and  
 22 facilities.

23 (3) To set policies, procedures, and guidelines for  
 24 the design, construction, renovation, equipment, furnishing,

1 maintenance, and improvement of all property now owned or  
2 hereafter acquired.

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

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

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

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

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

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

24 ~~(10) With regard to K-12 public schools, the~~  
25 ~~department may adopt uniform standards for the construction~~

1 ~~and renovation of K-12 public schools; with regard to any~~  
 2 ~~public postsecondary institution or public institution of~~  
 3 ~~higher education, the governing board of that institution may~~  
 4 ~~adopt uniform standards for construction and renovation of~~  
 5 ~~facilities on property belonging to that state educational~~  
 6 ~~institution.~~

7 (10) With regard to any educational institution or  
 8 state educational institution, the governing board of that  
 9 institution may adopt uniform standards for the construction  
 10 and renovation of facilities on property belonging to that  
 11 institution.

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

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

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

20 (b) (1) Any ~~repair or maintenance~~ capital improvement  
 21 project with an estimated cost certified by a licensed  
 22 architect or licensed engineer to be no more than five hundred  
 23 thousand dollars (\$500,000); any repair or maintenance of  
 24 heating, ventilation, and air conditioning systems; and any  
 25 roofing repair or maintenance shall not be subject to approval

1 by the ~~department~~ Division of Construction Management within  
2 the Department of Finance.

3 (2) Any repair or maintenance project with an  
4 estimated cost certified by a licensed architect or licensed  
5 engineer to be no more than five hundred thousand dollars  
6 (\$500,000); any repair or maintenance of heating, ventilation,  
7 and air conditioning systems; and any roofing repair or  
8 maintenance shall not be subject to approval by the governing  
9 ~~board of each public postsecondary institution and public~~  
10 ~~institution of higher education.~~

11 ~~(c)(1) All powers, authority, and jurisdiction of~~  
12 ~~the former Building Commission relating to K-12 public~~  
13 ~~schools, including, but not limited to, those authorities~~  
14 ~~currently established in Sections 16-1-.2.1, 16-16-10(o)(2)~~  
15 ~~and (p), 39-2-2(f)(1), 41-9-160 to 41-9-165, 41-9-170 to~~  
16 ~~41-9-174, 41-9-243, and 41-16-72(3)(a) through (f), Code of~~  
17 ~~Alabama 1975, which were previously transferred to the~~  
18 ~~Division of Construction Management within the Department of~~  
19 ~~Finance, are transferred to the Department of Education.~~

20 ~~(2) All powers, authority, and jurisdiction of the~~  
21 ~~former Building Commission relating to any public~~  
22 ~~postsecondary institution or public institution of higher~~  
23 ~~education, including, but not limited to, those authorities~~  
24 ~~currently established in Sections 16-1-2.2, 16-16-10(o)(2) and~~  
25 ~~(p), 39-2-2(f)(1), 41-9-160 to 41-9-165, 41-9-170 to 41-9-174,~~

1 ~~41-9-243, and 41-16-72(3)(a) through (f), Code of Alabama~~  
2 ~~1975, which were previously transferred to the Division of~~  
3 ~~Construction Management within the Department of Finance, are~~  
4 ~~transferred to the governing board of that institution.~~

5 board of an educational institution or state  
6 educational institution.

7 (c) All powers, authority, and jurisdiction of the  
8 Division of Construction Management or the former Building  
9 Commission relating to any educational institution or state  
10 educational institution, including, but not limited to, those  
11 authorities currently established in Sections 16-1-2.2,  
12 16-16-10(o)(2) and (p), 39-2-2(f)(1), 41-9-160 to 41-9-165,  
13 41-9-170 to 41-9-174, 41-9-243, and 41-16-72(3)(a) through  
14 (f), Code of Alabama 1975, which were previously transferred  
15 to the Division of Construction Management within the  
16 Department of Finance, are transferred to the governing board  
17 of that institution.

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

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 ~~Division of Construction~~  
 25 Management approved safe space or hallway rated for tornadoes.

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

7           Section 5. An educational institution or state  
8 educational institution may contract with the Division of  
9 Construction Management within the Department of Finance for  
10 any purpose.

11           Section 6. Nothing in this act shall eliminate or  
12 otherwise diminish the authority of a municipality to conduct  
13 property inspections.

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

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Speaker of the House of Representatives

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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.

Jeff Woodard  
Clerk

Senate	29-APR-21	Amended and Passed
House	29-APR-21	Concurred in Senate Amendment