

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 58th Legislature (2021)

4 ENGROSSED SENATE
5 BILL NO. 866

By: Leewright of the Senate

and

West (Kevin) of the House

6
7
8
9
10 An Act relating to public buildings and public works;
11 amending 61 O.S. 2011, Section 204, as last amended
12 by Section 10, Chapter 302, O.S.L. 2013 (61 O.S.
13 Supp. 2020, Section 204), which relates to the Public
14 Facilities Act; authorizing licensed architects and
15 engineers to develop, issue and award solicitations
16 under certain circumstances; providing exception on
17 projects undertaken by the Oklahoma Tourism and
18 Recreation Department; updating statutory language;
19 and declaring an emergency.

20
21
22 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

23 SECTION 1. AMENDATORY 61 O.S. 2011, Section 204, as last
24 amended by Section 10, Chapter 302, O.S.L. 2013 (61 O.S. Supp. 2020,
25 Section 204), is amended to read as follows:

26 Section 204. A. The Department of Real Estate Services shall:

27 1. Maintain a comprehensive master plan for utilization and
28 construction of state buildings, capital improvements, and

1 utilization of land owned by this state. Requirements of the master
2 planning process shall include:

- 3 a. reporting by each state agency concerning facility
4 needs,
- 5 b. data acquisition of condition and performance
6 benchmarking of state agency facilities,
- 7 c. analyses and audits of state agency facilities,
8 properties and leaseholds to determine critical and
9 long-range needs,
- 10 d. development of state agency long-range strategic
11 facility plans,
- 12 e. short-range project programming to identify budget
13 requests for facility capital improvements and asset
14 management decisions, and
- 15 f. an annual capital plan for all state agencies
16 submitted to the Legislature for line-item
17 appropriation requests;

18 2. Review and approve all construction plans and specifications
19 to ensure compliance with good construction practices and space
20 standards, costs of project, proposed construction timetables, and
21 agency need for the project;

22 3. Inspect prior to acceptance and final payment all completed
23 projects for which the Department issued bid solicitations to ensure
24 compliance with the plans and specifications of the project;

1 4. Select and hire consultants and construction managers for
2 projects as determined or approved by the Department. The
3 Department shall select, award and execute contracts to consultants
4 and construction managers that provide services to state agencies
5 subject to ~~this act~~ the Public Facilities Act;

6 5. Develop and issue solicitations for award of state agency
7 contracts for construction services. The Department shall have
8 final approval authority for contracts and contract documents.
9 Neither the Department nor any public entity shall, for performance
10 of work that requires that a contractor be licensed by this state,
11 issue a solicitation to, or make a contract with, a contractor not
12 licensed by this state;

13 6. Review inspections performed by consultants and construction
14 managers during construction, perform primary inspections when
15 consultants or construction managers are not used, and final
16 inspections after completion;

17 7. Establish standards and policies as required to standardize
18 facility assessment and benchmarking, facility operations and
19 maintenance, asset preservation, design and energy standards, space
20 utilization, material testing, indexes of efficiency, economy, and
21 effectiveness;

22 8. Monitor indices of facility condition, effectiveness of
23 operations and maintenance programs, deferred maintenance
24 prioritization, effectiveness of planning processes, budgeting for

1 capital needs, application of facility standards as established by
2 the Department, and performance outcomes of construction projects to
3 ensure maximum efficiency in the expenditure of state funds for
4 asset management and preservation of the state's capital real
5 property;

6 9. Coordinate, monitor and report on statewide energy
7 conservation programs delegated to the Office;

8 10. Provide property leasing and brokerage services delegated
9 to the Office;

10 11. Report fraud or waste in any construction project by
11 written notification with documentation for the report to the
12 Attorney General. The Attorney General shall take appropriate
13 action to protect the interest of the state; and

14 12. Prequalify as good and sufficient insurance carriers,
15 bonding companies and surety companies to meet provisions of
16 Sections 1 and 134 of this title. The Director shall promulgate
17 rules to establish criteria to determine whether a carrier or
18 company is good and sufficient. The prequalification requirement
19 and process shall not violate the provisions of Section 135 of this
20 title.

21 B. When a state agency employs a licensed architect or licensed
22 engineer as a full-time employee, ~~said~~ the licensed employee may
23 ~~conduct~~ approve required facility planning, ~~prepare~~ project plans
24 and specifications and monitor construction work as prescribed by

1 the ~~Department~~ state agency. The agency may develop, issue and
2 award solicitations associated with actions taken under this
3 subsection so long as the requirements of the Public Facilities Act
4 and the Public Competitive Bidding Act are met by the state agency.

5 State agencies authorized to employ licensed architects and
6 engineers for the purposes of this section include:

7 1. The Department of Transportation with respect to highways,
8 bridges and dams;

9 2. The Oklahoma State Regents for Higher Education and its
10 constituent institutions;

11 3. The Military Department of the State of Oklahoma;

12 4. The Oklahoma Tourism and Recreation Department on projects
13 in excess of Fifty Thousand Dollars (\$50,000.00); and

14 5. The Department of Human Services.

15 C. Not later than December 31, 2012, with the advice of the
16 State Facilities Director, the Director of the Office of Management
17 and Enterprise Services shall provide a report containing
18 recommendations to the Legislature for the streamlining,
19 integration, and consolidation of state construction, maintenance,
20 and real property management processes to maximize capital assets
21 and achieve cost savings to the state. The report shall identify
22 the necessary planning processes for transitioning from a
23 decentralized capital budgeting process to a centralized annual
24

1 capital plan appropriation process, to be implemented no later than
2 January 1, 2014.

3 SECTION 2. It being immediately necessary for the preservation
4 of the public peace, health or safety, an emergency is hereby
5 declared to exist, by reason whereof this act shall take effect and
6 be in full force from and after its passage and approval.

7
8 COMMITTEE REPORT BY: COMMITTEE ON GOVERNMENT MODERNIZATION AND
9 EFFICIENCY, dated 04/06/2021 - DO PASS.
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24