

1 SB76  
2 167945-3  
3 By Senator Marsh  
4 RFD: Governmental Affairs  
5 First Read: 03-MAR-15

1 SB76

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3  
4 ENROLLED, An Act,

5 To amend Sections 41-4-2 and 41-4-3, Code of  
6 Alabama, 1975, relating to the duties of the Department of  
7 Finance, Section 41-4-261, relating to the duties of the  
8 office of space management and Section 41-9-141, relating to  
9 the duties of the Building Commission; to repeal Section  
10 41-4-183, relating to the employment of landscape gardener for  
11 Capitol grounds, Section 41-6A-4(10) relating to energy usage  
12 and Sections 41-9-140 and 41-9-142 relating to the Building  
13 Commission; to create a permanent joint legislative oversight  
14 committee on the management of state-owned and leased real  
15 property; and to transfer all duties and responsibilities of  
16 the Building Commission in Sections 16-1.2.1 and 16-1.2.2,  
17 16-16-10 (o) (2) and (p), 34-14B-1 to 34-14B-10, 39-2-2(f) (1),  
18 41-9-160 to 41-9-165, 41-9-170 to 41-9-174, 41-9-243,  
19 41-9-542, 41-10-271, 41-10-364, and 41-16-72(3) (a), to the  
20 Division of Construction Management within the Department of  
21 Finance.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. The Legislature of Alabama hereby finds  
24 and determines that the responsible stewardship of its  
25 state-owned and leased real property is a proper governmental

1 function of the State of Alabama. The Legislature finds that  
2 costs for maintenance, construction and leasing of real  
3 property in the state government comprise a significant  
4 portion of available resources. The Legislature also finds  
5 that as one of the largest owners and operators of buildings  
6 in Alabama, the State is a major consumer of energy. It is  
7 therefore the intent of this bill to establish centralized  
8 management of real property through leasing administration,  
9 facilities maintenance and management, and construction  
10 management that consists of expanded duties in existing  
11 divisions, as well as newly established divisions, within the  
12 Department of Finance. In establishing this centralization,  
13 it is further the intent of the Legislature to establish  
14 comprehensive real property asset management practices to  
15 achieve immediate and long term cost savings and cost  
16 avoidance, to increase operational efficiency, to optimize  
17 opportunities to move from leased spaces to state-owned spaces  
18 and to establish office space standards. The Legislature also  
19 intends to incorporate energy efficient practices and  
20 behaviors into daily and long term operations of state  
21 government which will preserve natural resources, conserve  
22 energy and water, and reduce waste.

23 Section 2. All real property owned or leased by  
24 state departments, boards, bureaus, commissions, agencies,  
25 offices and institutions shall be managed and supervised by

1 the Department of Finance through centralized divisions.  
2 These centralized organizations shall be responsible for the  
3 management of facilities, the management of leasing of real  
4 property, the management of construction projects, space  
5 management and the management of energy efficiency efforts.

6 Section 3. Sections 41-4-2, 41-4-3, 41-4-261 and  
7 41-9-141, Code of Alabama 1975, are hereby amended to read as  
8 follows:

9 "§41-4-2.

10 There shall be a Department of Finance, which shall  
11 be an executive and administrative department and which shall  
12 have general supervision of all matters pertaining to the  
13 finances and real property of the state and the departments,  
14 boards, bureaus, commissions, agencies, offices and  
15 institutions thereof and, to the extent herein indicated, over  
16 the finances of the counties, municipal corporations,  
17 political subdivisions and local public bodies in the state,  
18 and to furnish the physical facilities, equipment and supplies  
19 and, to the extent herein indicated, the personnel, for the  
20 operation of the state and such departments, boards, bureaus,  
21 commissions, agencies, offices and institutions thereof. The  
22 Department of Finance shall have a seal, which shall be  
23 affixed to official acts.

24 "§41-4-3.

25 It shall be the duty of the Department of Finance:

1           (1) To manage, supervise and control all matters  
2 pertaining to the fiscal affairs and fiscal procedure of the  
3 state, except such as may, by the constitution or statute, be  
4 specifically required to be performed by the Auditor, the  
5 Treasurer or the Department of Revenue, and to keep all  
6 records, accounts and data relating thereto.

7           (2) To manage and supervise all state real property  
8 wherever located through a centralized organization within the  
9 department.

10          ~~(2)~~ (3) To manage, supervise and control the  
11 insurance of all state property, wherever located.

12          ~~(3)~~ (4) To operate, manage and administer the State  
13 Insurance Fund.

14          ~~(4)~~ (5) To make the annual financial report of the  
15 state, as soon as possible after the close of each fiscal  
16 year, in accordance with approved public accounting practice,  
17 and in such form and such detail as may be necessary to  
18 present an accurate description of the financial condition of  
19 the state during the preceding fiscal year. The reports of the  
20 Auditor and the Treasurer shall be bound with, and printed as  
21 a part of, such report.

22          ~~(5)~~ (6) To conduct such studies, to secure such  
23 information and data, to make such reports and to furnish such  
24 information as may be required by the Governor or the  
25 Legislature.

1           "§41-4-261.

2           The functions, powers and duties of the ~~office~~  
3 division of space management shall be as follows:

4           (1) To formulate a statewide space management  
5 program.

6           (2) To establish long-range plans in regard to state  
7 space needs.

8           (3) To make studies, surveys, investigations and  
9 inventories of all buildings owned or leased by the state and  
10 to require all agencies to assist in such activities.

11           (4) To promulgate uniform standards for allocation  
12 of facilities owned or leased by the state.

13           (5) To investigate all requests for additional  
14 facilities needed by all ~~state agencies~~ departments, boards,  
15 bureaus, commissions, agencies and offices of the state and to  
16 ~~make recommendations concerning the need for and the best~~  
17 ~~method of allocating or acquiring such facilities~~ allocate  
18 space for their use.

19           (6) To contract with other agencies, corporations  
20 entities or individuals to make studies, surveys,  
21 investigations, inventories and recommendations relative to  
22 the most economic and feasible methods of acquiring new space  
23 and utilization of present space.

24           (7) To assist and advise the Director of Finance in  
25 allocating available space and in acquiring new space.

1           (8) To make recommendations and reports to the  
2 ~~Legislature~~ Director of Finance relative to the proper  
3 utilization of and acquisition of space by state agencies.

4           (9) To make rules and regulations necessary to  
5 implement the provisions of this article.

6           "§41-9-141.

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

12           (1) To acquire lands by purchase, condemnation, or  
13 otherwise.

14           (2) To plan for the construction, repair,  
15 remodeling, enlargement, renovation, furnishing, refurnishing,  
16 improvement or relocation of buildings, structures, and  
17 facilities for state departments, boards, bureaus,  
18 commissions, agencies and offices ~~buildings and designate the~~  
19 ~~location thereof.~~

20           (3) To ~~plan and provide~~ set policies, procedures,  
21 and guidelines for the ~~improvement~~ design, construction,  
22 renovation, equipment, furnishing, maintenance and improvement  
23 of all property now owned or hereafter acquired by the state  
24 or any institution or agency thereof.

1           (4) To construct, repair, equip, remodel, enlarge,  
2 renovate, furnish, refurnish, improve, and locate buildings,  
3 structures, and facilities for the use of the State of Alabama  
4 or any of its ~~institutions or agencies~~ departments, boards,  
5 bureaus, commissions, agencies and offices as in its judgment  
6 shall be necessary for state, institutional, or agency  
7 purposes.

8           (5) To enter into contract 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 moneys, land, or equipment  
13 donated, appropriated, or otherwise acquired by it for the  
14 purposes provided for in this subsection.

15           ~~(7) To take the action necessary to accomplish the~~  
16 ~~purposes provided for in this subsection.~~

17           ~~(8) (7)~~ To charge and provide for collection of user  
18 fees for its services. The fees established shall take into  
19 consideration the costs of operating the ~~commission~~ division.  
20 ~~It is provided, however, that the fees so established by this~~  
21 ~~section shall not exceed the Appendix B Recommended Schedule~~  
22 ~~of Permit Fees of the Southern Standard Building Code.~~

23           ~~(b) The commission is authorized and empowered to~~  
24 ~~use the services, facilities, or employees of the Alabama~~



1 ~~Development Office in furthering the objects of this article~~  
2 ~~when its request so to do is approved by the Governor.~~

3 ~~(c) The commission may appoint and dismiss any~~  
4 ~~officers, employees, and agents including competent~~  
5 ~~architectural and technical employees as may be necessary to~~  
6 ~~effectuate the purposes of this article. All employees of the~~  
7 ~~commission shall be subject to the provisions of the Merit~~  
8 ~~System. The commission is authorized to fix by contract the~~  
9 ~~fees or compensation of all architectural and technical~~  
10 ~~employees without regard to the Merit System Act.~~

11 ~~(d) (8) The commission is authorized and empowered~~  
12 ~~to make and adopt all necessary rules, regulations, and plans~~  
13 ~~for its own guidance and for the proper conduct of the duties~~  
14 ~~imposed upon it.~~

15 ~~(e) The decisions of the commission with respect to~~  
16 ~~approval and allocations of funds shall be final.~~

17 ~~(f) No meeting of the commission shall be held on~~  
18 ~~less than three days' actual notice to the members thereof.~~

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

23 (10) To promulgate uniform standards for the  
24 construction and renovation of all state-owned facilities.

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

4           (12) To submit to the Director of Finance the  
5 priorities and recommendations for the repair, renovation,  
6 capital improvement and planning needs of state departments,  
7 boards, bureaus, commissions, agencies and offices.

8           (13) To review and approve or disapprove all state  
9 bond expenditures approved for construction.

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

12          (b) The Division of Construction Management shall be  
13 headed by and under the supervision, direction and control of  
14 an officer who shall be designated director of construction  
15 management. He or she shall be appointed, subject to the  
16 provisions of the state Merit Law, by the Director of Finance,  
17 with the approval of the Governor. The compensation of such  
18 officer shall be fixed in accordance with the pay plan of the  
19 state Merit System.

20                 Section 4. Effective October 1, 2015, the Building  
21 Commission established in Section 41-9-140 of the Code of  
22 Alabama, 1975, is abolished. All powers, authority and  
23 jurisdiction of the Building Commission, including but not  
24 limited to those authorities currently established in Sections  
25 16-1.2.1 and 16-1.2.2, 16-16-10 (o) (2) and (p), 34-14B-1 to

1 34-14B-10, 39-2-2(f)(1), 41-9-160 to 41-9-165, 41-9-170 to  
2 41-9-174, 41-9-243, 41-9-542, 41-10-271, 41-10-364, and  
3 41-16-72(3)(a) through (f) are hereby transferred to the  
4 Division of Construction Management within the Department of  
5 Finance.

6 Section 5. There shall be established within the  
7 Department of Finance the Division of Facilities Management.

8 (a) The functions, powers and duties of the Division  
9 of Facilities Management shall be as follows:

10 (1) To provide for the supervision, repair,  
11 maintenance, operation and cleaning of all buildings,  
12 facilities and structures owned or leased by the state.

13 (2) To develop a statewide maintenance plan to  
14 address maintaining and increasing operational efficiency of  
15 state buildings through ongoing and preventive maintenance,  
16 addressing deferred maintenance and increasing building  
17 efficiency.

18 (3) To develop and implement minimal standards for  
19 the maintenance, operations, cleaning and upkeep of state  
20 buildings, facilities and structures.

21 (4) To study, develop and implement methods of  
22 increasing building efficiency through operations and  
23 maintenance and to require all agencies to assist in such  
24 activities.

1           (5) To contract with other agencies, corporations,  
2 entities or individuals for maintenance and operations,  
3 preventive maintenance, sourcing of facilities maintenance  
4 goods and services, and facilities inspection programs and  
5 activities for any department, board, bureau, commission,  
6 agency or office.

7           (6) To perform such other functions and duties of  
8 the Department of Finance as may from time to time be assigned  
9 by the Director of Finance.

10           (b) The Division of Facilities Management shall be  
11 headed by and under the supervision, direction and control of  
12 an officer who shall be designated director of facilities  
13 management. He or she shall be appointed, subject to the  
14 provisions of the state Merit Law, by the Director of Finance,  
15 with the approval of the Governor. The compensation of such  
16 officer shall be fixed in accordance with the pay plan of the  
17 state Merit System.

18           Section 6. There shall be established within the  
19 Department of Finance the Division of Leasing Management.

20           (a) The functions, powers and duties of the Division  
21 of Leasing Management shall be as follows:

22           (1) To formulate a statewide leasing plan for  
23 offices and other needed lease space for the various state  
24 departments, boards, bureaus, commissions, agencies and  
25 offices managed by the division.

1           (2) To maintain and manage an inventory of all state  
2 leased property.

3           (3) To review and approve or disapprove all real  
4 property leases and to make recommendations to the Director of  
5 Finance.

6           (4) To develop and implement standards for real  
7 estate lease agreements.

8           (5) To administer and monitor all real estate lease  
9 agreements.

10          (6) To make recommendations and reports to the  
11 Director of Finance as to utilization of leased office space  
12 and future needs as well as other reports and recommendations  
13 as required by the Director of Finance.

14          (7) To contract with other agencies, corporations,  
15 entities or individuals for the management and the procurement  
16 of leasing of real property for any department, board, bureau,  
17 commission, agency or office within the State.

18          (b) The Division of Leasing Management shall be  
19 headed by and under the supervision, direction and control of  
20 an officer who shall be designated director of leasing  
21 management. He or she shall be appointed, subject to the  
22 provisions of the state Merit Law, by the Director of Finance,  
23 with the approval of the Governor. The compensation of such  
24 officer shall be fixed in accordance with the pay plan of the  
25 state Merit System.

1           Section 7. There shall be established within the  
2 Department of Finance a Division of Energy Management.

3           (a) The functions, powers and duties of the division  
4 of energy management shall be, with respect to state-owned or  
5 state leased facilities, as follows:

6           (1) To formulate a statewide energy management  
7 program to promote energy conservation.

8           (2) To establish long-range plans in regard to state  
9 energy management needs.

10          (3) To study, develop and implement methods of  
11 measuring and reporting energy efficiency and energy usage for  
12 state owned and leased facilities and to require all agencies  
13 to assist in such activities.

14          (4) To promulgate uniform standards of energy  
15 management and energy savings procedures and practices  
16 applicable to all state-owned or state leased facilities.

17          (5) To develop energy conservation practices in the  
18 design, construction, renovation, operation, furnishing,  
19 equipping and maintenance of state facilities.

20          (6) To assist and advise the Director of Finance on  
21 cost savings methods through energy management.

22          (7) To contract with other agencies, corporations,  
23 entities or individuals to make studies, surveys,  
24 investigations or recommendations for energy management or  
25 energy savings procedures and practices.

1           (8) To make rules and regulations necessary to  
2 implement the provisions of this article.

3           (9) To perform such other functions and duties of  
4 the Department of Finance as may from time to time be assigned  
5 by the Director of Finance.

6           (b) The Division of Energy Management shall be  
7 headed by and under the supervision, direction and control of  
8 an officer who shall be designated director of energy  
9 management. He or she shall be appointed, subject to the  
10 provisions of the state Merit Law, by the Director of Finance,  
11 with the approval of the Governor. The compensation of such  
12 officer shall be fixed in accordance with the pay plan of the  
13 state Merit System.

14           Section 8. For the purposes of this bill, real  
15 property shall mean all real property and all interests  
16 pertaining thereon, now or hereafter owned, leased or  
17 otherwise possessed, by the State of Alabama, its departments,  
18 board, bureaus, commissions, institutions, corporations,  
19 agencies and other state entities, and used for government  
20 purposes, unless specifically excluded by other provisions of  
21 this bill.

22           Section 9. All user fees collected, direct  
23 appropriations, and other funds received under the provisions  
24 of this article shall be deposited into a revolving fund in  
25 the State Treasury designated as the Real Property Management

1 Fund, and the Director of Finance is authorized to make  
2 deposits and expenditures from time to time from such fund to  
3 carry out the purposes of this article. All balances of  
4 revenue, income and receipts remaining in the Real Property  
5 Management Fund at the end of the fiscal year shall carry over  
6 to the next fiscal year and shall not revert to the State  
7 General Fund or any other fund under the provisions of Section  
8 41-4-93. No funds shall be withdrawn or expended except as  
9 budgeted and allotted according to Sections 41-4-80 to 41-4-96  
10 and Sections 41-19-1 to 41-19-12, inclusive, and only in  
11 amounts as stipulated in the general appropriations act or  
12 other appropriations acts.

13 Section 10. (a) All real property owned or leased by  
14 state departments, boards, bureaus, commissions, agencies,  
15 offices and other instruments of the state are subject to the  
16 requirements of this bill except:

17 (1) All educational facilities including K-12,  
18 postsecondary, and higher education facilities

19 (2) Facilities of the Legislative Branch of  
20 government

21 (3) Facilities of the Judicial Branch of government

22 (4) Facilities of the Retirement Systems of Alabama

23 (5) Facilities of the Alabama Port Authority

24 (6) Facilities of the State Military Department



1                   (7) Lands managed by the Lands Division of the  
2 Department of Conservation and Natural Resources

3                   (8) Right-of-way owned by the Department of  
4 Transportation

5                   (9) Gulf State Park

6                   (10) Facilities and real property owned or leased by  
7 departments, boards, bureaus, commissions, agencies, offices,  
8 and other instruments of the state that do not receive any  
9 appropriation of state funds.

10                  (11) Any real property, building, improvement, or  
11 facility managed or controlled by a state agency, if adherence  
12 with any requirement of this act would violate Sections 9-2-26  
13 or 9-11-19 of the Code of Alabama 1975, or any federal laws,  
14 regulations, or guidance, including, but not limited to, Title  
15 50, Code of Federal Regulations, Part 80.

16                  (12) Any unimproved real property owned, leased or  
17 otherwise possessed or controlled by the state or any  
18 department, board, bureau, commission, agency, office, or  
19 other instrument of the state.

20                  (13) Real property owned or leased by the Alabama  
21 Home Builders Licensure Board, the Alabama Housing Finance  
22 Authority, the Alabama Plumbers and Gas Fitters Examining  
23 Board, the Alabama Board of Heating, Air Conditioning, and  
24 Refrigeration Contractors, the Alabama Real Estate Commission,  
25 and the State Licensing Board for General Contractors.

1           (14) Other real property owned or leased by state  
2 departments, boards, bureaus, commissions, agencies, offices,  
3 and other instruments of the state may be exempted from the  
4 requirements of this bill if the exemption is agreed to by  
5 both the Director of Finance and the head of the state  
6 department, board, bureau, commission, agency, office, or  
7 other instrument of the state seeking the exemption and the  
8 exemption is found by them to be in the best interest of the  
9 State of Alabama.

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

12           (b) Any entity that is provided an exception from  
13 the requirements of this bill under subsection (a) may elect  
14 to waive that exception and have its real property and  
15 facilities become subject to the provisions of this bill by  
16 providing written notice of that election to the Director of  
17 Finance. Once an entity waives its exception, the entity may  
18 not rescind that waiver with respect to any real property or  
19 facilities that become subject to the provisions of this bill  
20 as a result of the entity's waiver.

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

1           (d) The exceptions provided in subsection (a) (1) do  
2 not alter or affect the compliance of educational facilities  
3 with the contract forms and procedures of the Division of  
4 Construction Management.

5           Section 11. (a) There is created a Permanent Joint  
6 Legislative Oversight Committee on the Management of  
7 State-Owned and Leased Real Property. The committee shall  
8 consist of the Lieutenant Governor, the Speaker of the House  
9 of Representatives, three members of the House of  
10 Representatives appointed by the Speaker of the House, one of  
11 whom shall be a member of the House minority party, and three  
12 members of the Senate appointed by the President Pro Tempore  
13 of the Senate, one of whom shall be a member of the Senate  
14 minority party. Each member of the committee shall receive  
15 compensation and expenses pursuant to Amendment 871 to The  
16 Constitution of Alabama of 1901.

17           (b) It shall be the duty and function of the  
18 committee to review, analyze, and study the transfer,  
19 implementation, and performance of the requirements of this  
20 act.

21           (c) In reviewing the management of state-owned and  
22 leased real property, the Committee shall review the work of  
23 the Divisions of Facilities Management, Leasing Management,  
24 Construction Management, Energy Management, and Space  
25 Management.

1           Section 12. Beginning on October 1, 2015, the  
2 Divisions of Space Management, Facilities Management, Leasing  
3 Management, Construction Management and Energy Management may  
4 charge user fees to any department, board, bureau, commission,  
5 agency or office of the state for any services provided to  
6 them by these divisions.

7           Section 13. Sections 41-4-183, 41-6A-4(10), 41-9-140  
8 and 41-9-142, Code of Alabama, 1975, are hereby repealed. All  
9 references to the Alabama Building Commission shall be  
10 repealed and replaced with the Division of Construction  
11 Management within the Department of Finance. All funds  
12 remaining in the Building Commission Operating Fund and the  
13 Home Inspection Registration Fund shall be transferred into  
14 the Real Property Management Fund.

15           Section 14. The Director of Finance shall implement  
16 this law to achieve the intent expressed herein and shall have  
17 such full authority and power necessary to accomplish its  
18 objectives, including the following express powers, together  
19 with those that may be reasonably implied therefrom by the  
20 Director in the exercise of his or her discretion:

21           (1) To organize the division in such fashion as the  
22 Director determines will be most effective, to accomplish the  
23 objectives of this law;

24           (2) To employ such personnel as he or she deems  
25 necessary, subject to the provisions of the Merit System law,

1       except as otherwise permitted by other provisions hereof. The  
2       State Personnel Board shall establish such positions as the  
3       Director determines are needed for operations of the  
4       divisions;

5               (3) To engage such consultants, lawyers,  
6       accountants, real estate brokers, agents and other  
7       professionals and service providers to provide advice, counsel  
8       and such other services and to negotiate such arrangement for  
9       compensation as he or she determines to be in the best  
10      interest of the state, including payment in such fashion as is  
11      customary for the service providers industry;

12              (4) To determine the times for the orderly transfers  
13      of responsibilities and duties pursuant to this bill;

14              (5) To develop such strategies, plans and priorities  
15      that he or she determines necessary and appropriate;

16              (6) To establish such policies, procedures and rules  
17      to ensure that the intent of this bill is realized.

18              Section 15. Notwithstanding any other provisions of  
19      this act, all persons employed with the Building Commission on  
20      the effective date of this act shall be transferred to the  
21      Department of Finance.

22              Section 16. All laws or parts of laws which conflict  
23      with this bill are hereby repealed.

24              Section 17. The provisions of this act are  
25      severable. If any part of the act is declared invalid or

1       unconstitutional, such declaration shall not affect the part  
2       which remains.

3                 Section 18. This act shall become effective October  
4       1, 2015 following its passage and approval by the Governor, or  
5       its otherwise becoming law.

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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB76

Senate 30-APR-15

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris  
Secretary

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House of Representatives  
Amended and passed 03-JUN-15

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Senate concurred in House amendment 04-JUN-15

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By: Senator Marsh