

1 SB76
2 165047-2
3 By Senator Marsh
4 RFD: Governmental Affairs
5 First Read: 03-MAR-15

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8 SYNOPSIS: This bill would establish centralized
9 authority and responsibility for the efficient and
10 economical management of all state-owned and leased
11 real property.

12 Under existing law, various state entities
13 perform facilities maintenance, space management,
14 energy management and construction management
15 services related to real property owned or leased
16 by the State of Alabama.

17 This bill would amend Sections 41-4-2 and
18 41-4-3, Code of Alabama, 1975, relating to the
19 duties of the Department of Finance, Section
20 41-4-261, relating to the duties of the office of
21 space management and Section 41-9-141, relating to
22 the duties of the Building Commission.

23 This bill would create the Division of
24 Facilities Management, the Division of Leasing
25 Management, the Division of Construction Management
26 and the Division of Energy Management within the
27 Department of Finance.

1 This bill would repeal Section 41-4-183,
2 relating to the employment of landscape gardener
3 for Capitol grounds, Section 41-6A-4(10) relating
4 to energy usage and Sections 41-9-140 and 41-9-142
5 relating to the Building Commission.

6 This bill would transfer all duties and
7 responsibilities of the Building Commission in
8 Sections 16-1.2.1 and 16-1.2.2, 16-16-10 (o) (2) and
9 (p), 34-14B-1 to 34-14B-10, 39-2-2(f) (1), 41-9-160
10 to 41-9-165, 41-9-170 to 41-9-174, 41-9-243,
11 41-9-542, 41-10-271, 41-10-364, and 41-16-72(3) (a),
12 to the Division of Construction Management within
13 the Department of Finance.

14
15 A BILL

16 TO BE ENTITLED

17 AN ACT

18
19 To amend Sections 41-4-2 and 41-4-3, Code of
20 Alabama, 1975, relating to the duties of the Department of
21 Finance, Section 41-4-261, relating to the duties of the
22 office of space management and Section 41-9-141, relating to
23 the duties of the Building Commission; to repeal Section
24 41-4-183, relating to the employment of landscape gardener for
25 Capitol grounds, Section 41-6A-4(10) relating to energy usage
26 and Sections 41-9-140 and 41-9-142 relating to the Building
27 Commission; and to transfer all duties and responsibilities of

1 the Building Commission in Sections 16-1.2.1 and 16-1.2.2,
2 16-16-10 (o) (2) and (p), 34-14B-1 to 34-14B-10, 39-2-2(f) (1),
3 41-9-160 to 41-9-165, 41-9-170 to 41-9-174, 41-9-243,
4 41-9-542, 41-10-271, 41-10-364, and 41-16-72(3) (a), to the
5 Division of Construction Management within the Department of
6 Finance.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. The Legislature of Alabama hereby finds
9 and determines that the responsible stewardship of its
10 state-owned and leased real property is a proper governmental
11 function of the State of Alabama. The Legislature finds that
12 costs for maintenance, construction and leasing of real
13 property in the state government comprise a significant
14 portion of available resources. The Legislature also finds
15 that as one of the largest owners and operators of buildings
16 in Alabama, the State is a major consumer of energy. It is
17 therefore the intent of this bill to establish centralized
18 management of real property through leasing administration,
19 facilities maintenance and management, and construction
20 management that consists of expanded duties in existing
21 divisions, as well as newly established divisions, within the
22 Department of Finance. In establishing this centralization,
23 it is further the intent of the Legislature to establish
24 comprehensive real property asset management practices to
25 achieve immediate and long term cost savings and cost
26 avoidance, to increase operational efficiency, to optimize
27 opportunities to move from leased spaces to state-owned spaces

1 and to establish office space standards. The Legislature also
2 intends to incorporate energy efficient practices and
3 behaviors into daily and long term operations of state
4 government which will preserve natural resources, conserve
5 energy and water, and reduce waste.

6 Section 2. All real property owned or leased by
7 state departments, boards, bureaus, commissions, agencies,
8 offices and institutions shall be managed and supervised by
9 the Department of Finance through centralized divisions.
10 These centralized organizations shall be responsible for the
11 management of facilities, the management of leasing of real
12 property, the management of construction projects, space
13 management and the management of energy efficiency efforts.

14 Section 3. Sections 41-4-2, 41-4-3, 41-4-261 and
15 41-9-141, Code of Alabama 1975, are hereby amended to read as
16 follows:

17 "§41-4-2.

18 There shall be a Department of Finance, which shall
19 be an executive and administrative department and which shall
20 have general supervision of all matters pertaining to the
21 finances and real property of the state and the departments,
22 boards, bureaus, commissions, agencies, offices and
23 institutions thereof and, to the extent herein indicated, over
24 the finances of the counties, municipal corporations,
25 political subdivisions and local public bodies in the state,
26 and to furnish the physical facilities, equipment and supplies
27 and, to the extent herein indicated, the personnel, for the

1 operation of the state and such departments, boards, bureaus,
2 commissions, agencies, offices and institutions thereof. The
3 Department of Finance shall have a seal, which shall be
4 affixed to official acts.

5 "§41-4-3.

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

7 (1) To manage, supervise and control all matters
8 pertaining to the fiscal affairs and fiscal procedure of the
9 state, except such as may, by the constitution or statute, be
10 specifically required to be performed by the Auditor, the
11 Treasurer or the Department of Revenue, and to keep all
12 records, accounts and data relating thereto.

13 (2) To manage and supervise all state real property
14 wherever located through a centralized organization within the
15 department.

16 ~~(2)~~ (3) To manage, supervise and control the
17 insurance of all state property, wherever located.

18 ~~(3)~~ (4) To operate, manage and administer the State
19 Insurance Fund.

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

1 ~~(5)~~ (6) To conduct such studies, to secure such
2 information and data, to make such reports and to furnish such
3 information as may be required by the Governor or the
4 Legislature.

5 "§41-4-261.

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

8 (1) To formulate a statewide space management
9 program.

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

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

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

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

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

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

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

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

8 "§41-9-141.

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

14 (1) To acquire lands by purchase, condemnation, or
15 otherwise.

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

22 (3) To ~~plan and provide~~ set policies, procedures,
23 and guidelines for the ~~improvement~~ design, construction,
24 renovation, equipment, furnishing, maintenance and
25 improvement of all property now owned or hereafter acquired by
26 the state 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~~
25 ~~Development Office in furthering the objects of this article~~
26 ~~when its request so to do is approved by the Governor.~~

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

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

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

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

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

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

23 (11) To review and administer all design and
24 construction contracts for all state-owned facilities as
25 provided for in this subsection.

26 (12) To submit to the Director of Finance the
27 priorities and recommendations for the repair, renovation,

1 capital improvement and planning needs of state departments,
2 boards, bureaus, commissions, agencies and offices.

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

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

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

15 Section 4. Effective October 1, 2015, the Building
16 Commission established in Section 41-9-140 of the Code of
17 Alabama, 1975, is abolished. All powers, authority and
18 jurisdiction of the Building Commission, including those
19 authorities currently established in Sections 16-1.2.1 and
20 16-1.2.2, 16-16-10 (o) (2) and (p), 34-14B-1 to 34-14B-10,
21 39-2-2(f) (1), 41-9-160 to 41-9-165, 41-9-170 to 41-9-174,
22 41-9-243, 41-9-542, 41-10-271, 41-10-364, and 41-16-72(3) (a)
23 through (f) are hereby transferred to the Division of
24 Construction Management within the Department of Finance.

25 Section 5. There shall be established within the
26 Department of Finance the Division of Facilities Management.

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

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

6 (2) To develop a statewide maintenance plan to
7 address maintaining and increasing operational efficiency of
8 state buildings through ongoing and preventive maintenance,
9 addressing deferred maintenance and increasing building
10 efficiency.

11 (3) To develop and implement minimal standards for
12 the maintenance, operations, cleaning and upkeep of state
13 buildings, facilities and structures.

14 (4) To study, develop and implement methods of
15 increasing building efficiency through operations and
16 maintenance and to require all agencies to assist in such
17 activities.

18 (5) To contract with other agencies, corporations,
19 entities or individuals for maintenance and operations,
20 preventive maintenance, sourcing of facilities maintenance
21 goods and services, and facilities inspection programs and
22 activities for any department, board, bureau, commission,
23 agency or office.

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

1 (b) The Division of Facilities Management shall be
2 headed by and under the supervision, direction and control of
3 an officer who shall be designated director of facilities
4 management. He or she shall be appointed, subject to the
5 provisions of the state Merit Law, by the Director of Finance,
6 with the approval of the Governor. The compensation of such
7 officer shall be fixed in accordance with the pay plan of the
8 state Merit System.

9 Section 6. There shall be established within the
10 Department of Finance the Division of Leasing Management.

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

13 (1) To formulate a statewide leasing plan for
14 offices and other needed lease space for the various state
15 departments, boards, bureaus, commissions, agencies and
16 offices managed by the division.

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

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

22 (4) To develop and implement standards for real
23 estate lease agreements.

24 (5) To administer and monitor all real estate lease
25 agreements.

26 (6) To make recommendations and reports to the
27 Director of Finance as to utilization of leased office space

1 and future needs as well as other reports and recommendations
2 as required by the Director of Finance.

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

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

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

17 (a) The functions, powers and duties of the division
18 of energy management shall be as follows:

19 (1) To formulate a statewide energy management
20 program to promote energy conservation.

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

23 (3) To study, develop and implement methods of
24 measuring and reporting energy efficiency and energy usage for
25 state owned and leased facilities and to require all agencies
26 to assist in such activities.

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

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

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

9 (7) To contract with other agencies, corporations,
10 entities or individuals to make studies, surveys,
11 investigations or recommendations for energy management or
12 energy savings procedures and practices.

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

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

18 (b) The Division of Energy Management shall be
19 headed by and under the supervision, direction and control of
20 an officer who shall be designated director of energy
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.

26 Section 8. For the purposes of this bill, real
27 property shall mean all real property and all interests

1 pertaining thereon, now or hereafter owned, leased or
2 otherwise possessed, by the State of Alabama, its departments,
3 board, bureaus, commissions, institutions, corporations,
4 agencies and other state entities, and used for government
5 purposes, unless specifically excluded by other provisions of
6 this bill.

7 Section 9. All user fees collected, direct
8 appropriations, and other funds received under the provisions
9 of this article shall be deposited into a revolving fund in
10 the State Treasury designated as the Real Property Management
11 Fund, and the Director of Finance is authorized to make
12 deposits and expenditures from time to time from such fund to
13 carry out the purposes of this article. All balances of
14 revenue, income and receipts remaining in the Real Property
15 Management Fund at the end of the fiscal year shall carry over
16 to the next fiscal year and shall not revert to the State
17 General Fund or any other fund under the provisions of Section
18 41-4-93. No funds shall be withdrawn or expended except as
19 budgeted and allotted according to Sections 41-4-80 to 41-4-96
20 and Sections 41-19-1 to 41-19-12, inclusive, and only in
21 amounts as stipulated in the general appropriations act or
22 other appropriations acts.

23 Section 10. All real property owned or leased by
24 state departments, boards, bureaus, commissions, agencies,
25 offices and other instruments of the state are subject to the
26 requirements of this bill except:

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

3 (2) Facilities of the Retirement Systems of Alabama

4 (3) Facilities of the Alabama Port Authority

5 (4) Facilities of the State Military Department

6 (5) Lands managed by the Lands Division of the
7 Department of Conservation and Natural Resources

8 (6) Right-of-way owned by the Department of
9 Transportation

10 (7) Gulf State Park

11 Section 11. Beginning on October 1, 2015, the
12 Divisions of Space Management, Facilities Management, Leasing
13 Management, Construction Management and Energy Management may
14 charge user fees to any department, board, bureau, commission,
15 agency or office of the state for any services provided to
16 them by these divisions.

17 Section 12. Sections 41-4-183, 41-6A-4(10), 41-9-140
18 and 41-9-142, Code of Alabama, 1975, are hereby repealed. All
19 references to the Alabama Building Commission shall be
20 repealed and replaced with the Division of Construction
21 Management within the Department of Finance.

22 Section 13. The Director of Finance shall implement
23 this law to achieve the intent expressed herein and shall have
24 such full authority and power necessary to accomplish its
25 objectives, including the following express powers, together
26 with those that may be reasonably implied therefrom by the
27 Director in the exercise of his or her discretion:

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

4 (2) To employ such personnel as he or she deems
5 necessary, subject to the provisions of the Merit System law,
6 except as otherwise permitted by other provisions hereof. The
7 State Personnel Board shall establish such positions as the
8 Director determines are needed for operations of the
9 divisions;

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

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

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

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

23 Section 14. All laws or parts of laws which conflict
24 with this bill are hereby repealed.

25 Section 15. The provisions of this act are
26 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 16. This act shall become effective October
4 1, 2015 following its passage and approval by the Governor, or
5 its otherwise becoming law.