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Chapter No. 314
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SENATE BILL NO. 2634

Originated in Senate _____ Secretary

SENATE BILL NO. 2634

AN ACT TO AMEND SECTIONS 27-104-7, 29-5-2 AND 31-11-3, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF REPEAL ON THE PROVISIONS THAT AUTHORIZE THE DEPARTMENT OF FINANCE AND ADMINISTRATION TO ENTER INTO CONTRACTS TO PROVIDE PARKING SPACES FOR STATE EMPLOYEES WHO WORK IN THE WOOLFOLK BUILDING, THE CARROLL GARTIN JUSTICE BUILDING OR THE WALTER SILLERS OFFICE BUILDING; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 27-104-7, Mississippi Code of 1972, is amended as follows:

27-104-7. (1) There is hereby created within the Department of Finance and Administration the Public Procurement Review Board, which shall be composed of the Executive Director of the Department of Finance and Administration, the head of the Office of Budget and Policy Development and an employee of the Office of General Services who is familiar with the purchasing laws of this state. The Executive Director of the Department of Finance and Administration shall be chairman and shall preside over the meetings of the board. The board shall annually elect a vice chairman, who shall serve in the absence of the chairman. No business shall be transacted, including adoption of rules of procedure, without the presence of a quorum of the board. Two (2) members shall be a quorum. No action shall be valid unless approved by the chairman and one (1) other of those members present and voting, entered upon the minutes of the board and signed by the chairman. The board shall meet on a monthly basis and at any other time when notified by the chairman. Necessary clerical and administrative support for the board shall be provided by the Department of Finance and Administration. Minutes

shall be kept of the proceedings of each meeting, copies of which shall be filed on a monthly basis with the Legislative Budget Office.

(2) The Public Procurement Review Board shall have the following powers and responsibilities:

(a) Approve all purchasing regulations governing the purchase or lease by any agency, as defined in Section 31-7-1, of commodities and equipment, except computer equipment acquired pursuant to Sections 25-53-1 through 25-53-29;

(b) Adopt regulations governing the approval of contracts let for the construction and maintenance of state buildings and other state facilities;

(c) Adopt regulations governing any lease or rental agreement by any state agency or department, including any state agency financed entirely by federal funds, for space outside the buildings under the jurisdiction of the Department of Finance and Administration;

(d) Adopt, in its discretion, regulations to set aside at least five percent (5%) of anticipated annual expenditures for the purchase of commodities from minority businesses; however, all such set-aside purchases shall comply with all purchasing regulations promulgated by the department and shall be subject to all bid requirements. Set-aside purchases for which competitive bids are required shall be made from the lowest and best minority business bidder; however, if no minority bid is available or if the minority bid is more than two percent (2%) higher than the lowest bid, then bids shall be accepted and awarded to the lowest and best bidder. Provided, however, that the provisions herein shall not be construed to prohibit the rejection of a bid when only one (1) bid is received. Such rejection shall be placed in the minutes. For the purposes of this paragraph, the term "minority business" means a business which is owned by a person

who is a citizen or lawful permanent resident of the United States and who is:

(i) Black: having origins in any of the black racial groups of Africa.

(ii) Hispanic: of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin regardless of race.

(iii) Asian American: having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands.

(iv) American Indian or Alaskan Native: having origins in any of the original peoples of North America.

(v) Female;

(e) In consultation with and approval by the Chairmen of the Senate and House Public Property Committees, approve leases, for a term not to exceed eighteen (18) months, entered into by state agencies for the purpose of providing parking arrangements for state employees who work in the Woolfolk Building, the Carroll Gartin Justice Building or the Walter Sillers Office Building. The provisions of this paragraph (e) shall stand repealed on July 1, 2014.

(3) No member of the Public Procurement Review Board shall use his official authority or influence to coerce, by threat of discharge from employment, or otherwise, the purchase of commodities or the contracting for public construction under this chapter.

SECTION 2. Section 29-5-2, Mississippi Code of 1972, is amended as follows:

29-5-2. The duties of the Department of Finance and Administration shall be as follows:

(a) (i) To exercise general supervision and care over and keep in good condition the following state property located in the City of Jackson: the New State Capitol Building, the Woolfolk

State Office Building, the Carroll Gartin Justice Building, the Walter Sillers Office Building, the War Veterans' Memorial Building, the Charlotte Capers Building, the William F. Winter Archives and History Building, the Ike Sanford Veterans Affairs Building, the Old State Capitol Building, the Governor's Mansion, the Heber Ladner Building, the Burroughs Building, the Robert E. Lee Office Building, the Robert E. Lee Parking Garage, the Manship House Restoration and Visitor Center, the State Records Center, the Robert G. Clark, Jr. Building, and all other properties acquired in the same transaction at the time of the purchase of the Robert E. Lee Hotel property from the First Federal Savings and Loan Association of Jackson, Mississippi, which properties are more particularly described in a warranty deed heretofore executed and delivered on April 22, 1969, and filed for record in the Office of the Chancery Clerk of the First Judicial District of Hinds County, Mississippi, located in Jackson, Mississippi, on April 25, 1969, at 9:00 a.m., and recorded in Deed Book No. 1822, Page 136 et seq., the Central High Building, 101 Capitol Centre and the properties described in Section 1 of Chapter 542, Laws of 2009.

(ii) To exercise general supervision and care over and keep in good condition the Dr. Eldon Langston Bolton Building located in Biloxi, Mississippi.

(iii) To exercise general supervision and care over and keep in good condition the State Service Center, located at the intersection of U.S. Highway 49 and John Merl Tatum Industrial Drive in Hattiesburg, Mississippi.

(iv) To exercise general supervision and care over and keep in good condition any property purchased, constructed or otherwise acquired by the State of Mississippi for conducting state business and not specifically under the supervision and care by any other state entity, but which is reasonably assumed the

department would be responsible for such, as approved by the Public Procurement Review Board.

(b) To assign suitable office space for the various state departments, officers and employees who are provided with an office in any of the buildings under the jurisdiction or control of the Department of Finance and Administration. However, the assignment of space in the New Capitol Building shall be designated by duly passed resolution of the combined Senate Rules Committee and the House Management Committee, meeting as a joint committee, approved by the Lieutenant Governor and Speaker of the House of Representatives. A majority vote of the members of the Senate Rules Committee and a majority vote of the members of the House Management Committee shall be required on all actions taken, resolutions or reports adopted, and all other matters considered by the full combined committee on occasions when the Senate Rules Committee and the House Management Committee shall meet as a full combined committee.

(c) To approve or disapprove with the concurrence of the Public Procurement Review Board, any lease or rental agreements by any state agency or department, including any state agency financed entirely by federal and special funds, for space outside the buildings under the jurisdiction of the Department of Finance and Administration, including space necessary for parking to be used by state employees who work in the Woolfolk Building, the Carroll Gartin Justice Building or the Walter Sillers Office Building. In no event shall any employee, officer, department, federally funded agency or bureau of the state be authorized to enter a lease or rental agreement without prior approval of the Department of Finance and Administration and the Public Procurement Review Board.

The Department of Finance and Administration is authorized to use architects, engineers, building inspectors and other personnel

for the purpose of making inspections as may be deemed necessary in carrying out its duties and maintaining the facilities.

The provisions of this paragraph (c) shall stand repealed on July 1, 2014.

(d) To acquire by lease, lease-purchase agreement, or otherwise, as provided in Section 27-104-107, and to assign through the Office of General Services, by lease or sublease agreement from the office, and with the concurrence of the Public Procurement Review Board, to any state agency or department, including any state agency financed entirely by federal and special funds, appropriate office space in the buildings acquired.

SECTION 3. Section 31-11-3, Mississippi Code of 1972, is amended as follows:

31-11-3. (1) The Department of Finance and Administration, for the purposes of carrying out the provisions of this chapter, in addition to all other rights and powers granted by law, shall have full power and authority to employ and compensate architects or other employees necessary for the purpose of making inspections, preparing plans and specifications, supervising the erection of any buildings, and making any repairs or additions as may be determined by the Department of Finance and Administration to be necessary, pursuant to the rules and regulations of the State Personnel Board. The department shall have entire control and supervision of, and determine what, if any, buildings, additions, repairs, demolitions or improvements are to be made under the provisions of this chapter, subject to the regulations adopted by the Public Procurement Review Board.

(2) The department shall have full power to erect buildings, make repairs, additions or improvements, demolitions, to grant or acquire easements or rights-of-way, and to buy materials, supplies and equipment for any of the institutions or departments of the state subject to the regulations adopted by the Public Procurement Review Board. In addition to other powers conferred, the

department shall have full power and authority as directed by the Legislature, or when funds have been appropriated for its use for these purposes, to:

(a) Build a state office building;

(b) Build suitable plants or buildings for the use and housing of any state schools or institutions, including the building of plants or buildings for new state schools or institutions, as provided for by the Legislature;

(c) Provide state aid for the construction of school buildings;

(d) Promote and develop the training of returned veterans of the United States in all sorts of educational and vocational learning to be supplied by the proper educational institution of the State of Mississippi, and in so doing allocate monies appropriated to it for these purposes to the Governor for use by him in setting up, maintaining and operating an office and employing a state director of on-the-job training for veterans and the personnel necessary in carrying out Public Law No. 346 of the United States;

(e) Build and equip a hospital and administration building at the Mississippi State Penitentiary;

(f) Build and equip additional buildings and wards at the Boswell Retardation Center;

(g) Construct a sewage disposal and treatment plant at the state insane hospital, and in so doing acquire additional land as may be necessary, and to exercise the right of eminent domain in the acquisition of this land;

(h) Build and equip the Mississippi central market and purchase or acquire by eminent domain, if necessary, any lands needed for this purpose;

(i) Build and equip suitable facilities for a training and employing center for the blind;

(j) Build and equip a gymnasium at Columbia Training School;

(k) Approve or disapprove the expenditure of any money appropriated by the Legislature when authorized by the bill making the appropriation;

(l) Expend monies appropriated to it in paying the state's part of the cost of any street paving;

(m) Sell and convey state lands when authorized by the Legislature, cause said lands to be properly surveyed and platted, execute all deeds or other legal instruments, and do any and all other things required to effectively carry out the purpose and intent of the Legislature. Any transaction which involves state lands under the provisions of this paragraph shall be done in a manner consistent with the provisions of Section 29-1-1;

(n) Collect and receive from educational institutions of the State of Mississippi monies required to be paid by these institutions to the state in carrying out any veterans' educational programs;

(o) Purchase lands for building sites, or as additions to building sites, for the erection of buildings and other facilities which the department is authorized to erect, and demolish and dispose of old buildings, when necessary for the proper construction of new buildings. Any transaction which involves state lands under the provisions of this paragraph shall be done in a manner consistent with the provisions of Section 29-1-1;

(p) Obtain business property insurance with a deductible of not less than One Hundred Thousand Dollars ($100,000.00) on state-owned buildings under the management and control of the department; and

(q) In consultation with and approval by the Chairmen of the Public Property Committees of the Senate and the House of Representatives, enter into contracts for the purpose of providing

parking spaces for state employees who work in the Woolfolk Building, the Carroll Gartin Justice Building or the Walter Sillers Office Building. The provisions of this paragraph (q) shall stand repealed on July 1, 2014.

(3) The department shall survey state-owned and state-utilized buildings to establish an estimate of the costs of architectural alterations, pursuant to the Americans With Disabilities Act of 1990, 42 USCS, Section 12111 et seq. The department shall establish priorities for making the identified architectural alterations and shall make known to the Legislative Budget Office and to the Legislature the required cost to effectuate such alterations. To meet the requirements of this section, the department shall use standards of accessibility that are at least as stringent as any applicable federal requirements and may consider:

(a) Federal minimum guidelines and requirements issued by the United States Architectural and Transportation Barriers Compliance Board and standards issued by other federal agencies;

(b) The criteria contained in the American Standard Specifications for Making Buildings Accessible and Usable by the Physically Handicapped and any amendments thereto as approved by the American Standards Association, Incorporated (ANSI Standards);

(c) Design manuals;

(d) Applicable federal guidelines;

(e) Current literature in the field;

(f) Applicable safety standards; and

(g) Any applicable environmental impact statements.

(4) The department shall observe the provisions of Section 31-5-23, in letting contracts and shall use Mississippi products, including paint, varnish and lacquer which contain as vehicles tung oil and either ester gum or modified resin (with rosin as the principal base of constituents), and turpentine shall be used as a solvent or thinner, where these products are available at a cost

not to exceed the cost of products grown, produced, prepared, made or manufactured outside of the State of Mississippi.

(5) The department shall have authority to accept grants, loans or donations from the United States government or from any other sources for the purpose of matching funds in carrying out the provisions of this chapter.

(6) The department shall build a wheelchair ramp at the War Memorial Building which complies with all applicable federal laws, regulations and specifications regarding wheelchair ramps.

(7) The department shall review and preapprove all architectural or engineering service contracts entered into by any state agency, institution, commission, board or authority regardless of the source of funding used to defray the costs of the construction or renovation project for which services are to be obtained. The provisions of this subsection (7) shall not apply to any architectural or engineering contract paid for by self-generated funds of any of the state institutions of higher learning, nor shall they apply to community college projects that are funded from local funds or other nonstate sources which are outside the Department of Finance and Administration's appropriations or as directed by the Legislature. The provisions of this subsection (7) shall not apply to any construction or design projects of the State Military Department that are funded from federal funds or other nonstate sources.

(8) The department shall have the authority to obtain annually from the state institutions of higher learning information on all building, construction and renovation projects including duties, responsibilities and costs of any architect or engineer hired by any such institutions.

(9) As an alternative to other methods of awarding contracts as prescribed by law, the department may elect to use the method of contracting for construction projects set out in Sections 31-7-13.1 and 31-7-13.2; however, the dual-phase design-build

method of construction contracting authorized under Section 31-7-13.1 may be used only when the Legislature has specifically required or authorized the use of this method in the legislation authorizing a project.

SECTION 4. This act shall take effect and be in force from and after July 1, 2010.

PASSED BY THE SENATE
February 8, 2010

PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
March 1, 2010

SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR

GOVERNOR

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