

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

2  
3  
4 ENGROSSED

5  
6  
7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

10  
11 To amend Sections 41-4-2 and 41-4-3, Code of  
12 Alabama, 1975, relating to the duties of the Department of  
13 Finance, Section 41-4-261, relating to the duties of the  
14 office of space management and Section 41-9-141, relating to  
15 the duties of the Building Commission; to repeal Section  
16 41-4-183, relating to the employment of landscape gardener for  
17 Capitol grounds, Section 41-6A-4(10) relating to energy usage  
18 and Sections 41-9-140 and 41-9-142 relating to the Building  
19 Commission; to create a permanent joint legislative oversight  
20 committee on the management of state-owned and leased real  
21 property; and to transfer all duties and responsibilities of  
22 the Building Commission in Sections 16-1.2.1 and 16-1.2.2,  
23 16-16-10 (o) (2) and (p), 34-14B-1 to 34-14B-10, 39-2-2(f) (1),  
24 41-9-160 to 41-9-165, 41-9-170 to 41-9-174, 41-9-243,  
25 41-9-542, 41-10-271, 41-10-364, and 41-16-72(3) (a), to the  
26 Division of Construction Management within the Department of  
27 Finance.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

9           Section 3. Sections 41-4-2, 41-4-3, 41-4-261 and  
10 41-9-141, Code of Alabama 1975, are hereby amended to read as  
11 follows:

12           "§41-4-2.

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

27           "§41-4-3.

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

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

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

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

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

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

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

27 "§41-4-261.

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

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

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

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

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

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

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

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

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

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

3 "§41-9-141.

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

9 (1) To acquire lands by purchase, condemnation, or  
10 otherwise.

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

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

22 (4) To construct, repair, equip, remodel, enlarge,  
23 renovate, furnish, refurnish, improve, and locate buildings,  
24 structures, and facilities for the use of the State of Alabama  
25 or any of its ~~institutions or agencies~~ departments, boards,  
26 bureaus, commissions, agencies and offices as in its judgment

1 shall be necessary for state, institutional, or agency  
2 purposes.

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

7 (6) To receive any moneys, land, or equipment  
8 donated, appropriated, or otherwise acquired by it for the  
9 purposes provided for in this subsection.

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

12 ~~(8) (7) To charge and provide for collection of user~~  
13 ~~fees for its services. The fees established shall take into~~  
14 ~~consideration the costs of operating the commission division.~~  
15 ~~It is provided, however, that the fees so established by this~~  
16 ~~section shall not exceed the Appendix B Recommended Schedule~~  
17 ~~of Permit Fees of the Southern Standard Building Code.~~

18 ~~(b) The commission is authorized and empowered to~~  
19 ~~use the services, facilities, or employees of the Alabama~~  
20 ~~Development Office in furthering the objects of this article~~  
21 ~~when its request so to do is approved by the Governor.~~

22 ~~(c) The commission may appoint and dismiss any~~  
23 ~~officers, employees, and agents including competent~~  
24 ~~architectural and technical employees as may be necessary to~~  
25 ~~effectuate the purposes of this article. All employees of the~~  
26 ~~commission shall be subject to the provisions of the Merit~~  
27 ~~System. The commission is authorized to fix by contract the~~



1 ~~fees or compensation of all architectural and technical~~  
2 ~~employees without regard to the Merit System Act.~~

3 ~~(d) (8) The commission is authorized and empowered~~  
4 ~~t~~To make and adopt all necessary rules, regulations, and plans  
5 for its own guidance and for the proper conduct of the duties  
6 imposed upon it.

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

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

11 (9) To review and approve or disapprove all proposed  
12 construction, renovation or improvement projects for  
13 constructability, durability, maintainability and to ensure  
14 the efficient use and availability of funds.

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

17 (11) To review and administer all design and  
18 construction contracts for all state-owned facilities as  
19 provided for in this subsection.

20 (12) To submit to the Director of Finance the  
21 priorities and recommendations for the repair, renovation,  
22 capital improvement and planning needs of state departments,  
23 boards, bureaus, commissions, agencies and offices.

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

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

1           (15) To establish policies relating to the design  
2 and construction of state buildings and facilities to maximize  
3 the efficient use of state funds by allowing the use and reuse  
4 of plans, designs, reports and studies of professionals that  
5 are paid for with state funds for other state projects and  
6 entities.

7           (b) The Division of Construction Management shall be  
8 headed by and under the supervision, direction and control of  
9 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 but not  
19 limited to those authorities currently established in Sections  
20 16-1.2.1 and 16-1.2.2, 16-16-10 (o) (2) and (p), 34-14B-1 to  
21 34-14B-10, 39-2-2 (f) (1), 41-9-160 to 41-9-165, 41-9-170 to  
22 41-9-174, 41-9-243, 41-9-542, 41-10-271, 41-10-364, and  
23 41-16-72 (3) (a) through (f) are hereby transferred to the  
24 Division of Construction Management within the Department of  
25 Finance.

26           Section 5. There shall be established within the  
27 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, with respect to state-owned or  
19 state leased facilities, as follows:

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

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

24 (3) To study, develop and implement methods of  
25 measuring and reporting energy efficiency and energy usage for  
26 state owned and leased facilities and to require all agencies  
27 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. (a) 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 Legislative Branch of  
4 government

5                   (3) Facilities of the Judicial Branch of government

6                   (4) Facilities of the Retirement Systems of Alabama

7                   (5) Facilities of the Alabama Port Authority

8                   (6) Facilities of the State Military Department

9                   (7) Lands managed by the Lands Division of the  
10 Department of Conservation and Natural Resources

11                   (8) Right-of-way owned by the Department of  
12 Transportation

13                   (9) Gulf State Park

14                   (10) Facilities and real property owned or leased by  
15 departments, boards, bureaus, commissions, agencies, offices,  
16 and other instruments of the state that do not receive any  
17 appropriation of state funds.

18                   (11) Any real property, building, improvement, or  
19 facility managed or controlled by a state agency, if adherence  
20 with any requirement of this act would violate Sections 9-2-26  
21 or 9-11-19 of the Code of Alabama 1975, or any federal laws,  
22 regulations, or guidance, including, but not limited to, Title  
23 50, Code of Federal Regulations, Part 80.

24                   (12) Any unimproved real property owned, leased or  
25 otherwise possessed or controlled by the state or any  
26 department, board, bureau, commission, agency, office, or  
27 other instrument of the state.



1           (13) Real property owned or leased by the Alabama  
2 Home Builders Licensure Board, the Alabama Housing Finance  
3 Authority, the Alabama Plumbers and Gas Fitters Examining  
4 Board, the Alabama Board of Heating, Air Conditioning, and  
5 Refrigeration Contractors, and the State Licensing Board for  
6 General Contractors.

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

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

25           (c) The exceptions provided in subsection (a) do not  
26 alter or affect any of the provisions for compliance with a  
27 minimum building standards code or energy conservation

1 building code as required by Sections 41-9-160 to 41-9-165 and  
2 Sections 41-9-171 to 41-9-174.

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

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

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

23 (c) In reviewing the management of state-owned and  
24 leased real property, the Committee shall review the work of  
25 the Divisions of Facilities Management, Leasing Management,  
26 Construction Management, Energy Management, and Space  
27 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,  
26 except as otherwise permitted by other provisions hereof. The  
27 State Personnel Board shall establish such positions as the

1 Director determines are needed for operations of the  
2 divisions;

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

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

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

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

16 Section 15. All laws or parts of laws which conflict  
17 with this bill are hereby repealed.

18 Section 16. The provisions of this act are  
19 severable. If any part of the act is declared invalid or  
20 unconstitutional, such declaration shall not affect the part  
21 which remains.

22 Section 17. This act shall become effective October  
23 1, 2015 following its passage and approval by the Governor, or  
24 its otherwise becoming law.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
  
11  
12  
13  
14  
15  
16  
17

Senate

Read for the first time and referred to the Senate  
committee on Governmental Affairs..... 03-MAR-15

Reported from Governmental Affairs as Favorable  
with 1 amendment..... 17-MAR-15

Read for the third time and passed as amended .... 30-APR-15

Yeas 29  
Nays 0

Patrick Harris  
Secretary