

1 ENGROSSED SENATE  
2 BILL NO. 866

By: Leewright of the Senate

3 and

4 West (Kevin) of the House

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

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19 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

24 1. Maintain a comprehensive master plan for utilization and  
construction of state buildings, capital improvements, and  
utilization of land owned by this state. Requirements of the master  
planning process shall include:

a. reporting by each state agency concerning facility  
needs,

- b. data acquisition of condition and performance benchmarking of state agency facilities,
- c. analyses and audits of state agency facilities, properties and leaseholds to determine critical and long-range needs,
- d. development of state agency long-range strategic facility plans,
- e. short-range project programming to identify budget requests for facility capital improvements and asset management decisions, and
- f. an annual capital plan for all state agencies submitted to the Legislature for line-item appropriation requests;

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

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

4. Select and hire consultants and construction managers for projects as determined or approved by the Department. The Department shall select, award and execute contracts to consultants

1 and construction managers that provide services to state agencies  
2 subject to ~~this act~~ the Public Facilities Act;

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

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

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

19 8. Monitor indices of facility condition, effectiveness of  
20 operations and maintenance programs, deferred maintenance  
21 prioritization, effectiveness of planning processes, budgeting for  
22 capital needs, application of facility standards as established by  
23 the Department, and performance outcomes of construction projects to  
24 ensure maximum efficiency in the expenditure of state funds for

1 asset management and preservation of the state's capital real  
2 property;

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

5 10. Provide property leasing and brokerage services delegated  
6 to the Office;

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

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

18 B. When a state agency employs a licensed architect or licensed  
19 engineer as a full-time employee, ~~said~~ the licensed employee may  
20 ~~conduct~~ approve required facility planning, ~~prepare~~ project plans  
21 and specifications and monitor construction work as prescribed by  
22 the ~~Department~~ state agency. The agency may develop, issue and  
23 award solicitations associated with actions taken under this  
24 subsection so long as the requirements of the Public Facilities Act

1 and the Public Competitive Bidding Act are met by the state agency.

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

4 1. The Department of Transportation with respect to highways,  
5 bridges and dams;

6 2. The Oklahoma State Regents for Higher Education and its  
7 constituent institutions;

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

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

11 5. The Department of Human Services.

12 C. Not later than December 31, 2012, with the advice of the  
13 State Facilities Director, the Director of the Office of Management  
14 and Enterprise Services shall provide a report containing  
15 recommendations to the Legislature for the streamlining,  
16 integration, and consolidation of state construction, maintenance,  
17 and real property management processes to maximize capital assets  
18 and achieve cost savings to the state. The report shall identify  
19 the necessary planning processes for transitioning from a  
20 decentralized capital budgeting process to a centralized annual  
21 capital plan appropriation process, to be implemented no later than  
22 January 1, 2014.

23 SECTION 2. It being immediately necessary for the preservation  
24 of the public peace, health or safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and  
2 be in full force from and after its passage and approval.

3 Passed the Senate the 9th day of March, 2021.

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6 Presiding Officer of the Senate

7 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
8 2021.

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11 Presiding Officer of the House  
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