

STORAGE NAME: s2480s1z.edk
DATE: May 27, 1998

****FINAL ACTION****
****SEE FINAL ACTION STATUS SECTION****

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
EDUCATION K-12
FINAL BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: CS/SB 2480

RELATING TO: Alternative Education Institute

SPONSOR(S): Senate Committee on Criminal Justice and Senator Lee

COMPANION BILL(S): HB 4509 (Compare)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) SENATE CRIMINAL JUSTICE YEAS 8 NAYS 0
- (2) SENATE EDUCATION (W/D)
- (3) SENATE WAYS & MEANS (W/D)
- (4)
- (5)

I. FINAL ACTION STATUS:

PASSED BY THE LEGISLATURE - CHAPTER #98 - 209, Laws of Florida.

On April 29, 1998, CS/SB 2480 was placed on the Senate Special Order Calendar. A "strike everything after the enacting clause" amendment passed on second reading and the bill passed as amended [YEAS 40, NAYS 0].

On April 30, 1998, the House received CS/SB 2480. An amendment was adopted on second reading which authorizes the Department of Management Services (DMS) to receive and review bids and proposals for the use of the facility and make a recommendation to the working group; requires the working group to make a final determination for the use of the facility; and subjects the final recommendation to the notice, review, and objection procedures of s. 216.177, F.S. The bill was amended on second reading, read a third time, and passed as amended [YEAS 117, NAYS 0].

On May 1, 1998, the Senate concurred with the House amendment and the bill was passed as amended [YEAS 39, NAYS 0].

The bill was presented to the Governor on May 8, 1998, and on May 24, 1998, became law without the Governor's signature.

II. SUMMARY:

The bill revises provisions relating to the residential facility originally authorized to be constructed by the Alternative Education Institute (AEI) in the following ways:

- Transfers of ownership of the facility from AEI to the Department of Management Services (DMS).
- Authorizes the DMS to access funds previously appropriated to AEI, in order to complete construction of the facility to the extent necessary to stabilize assets and prepare the facility for future use.
- Creates a working group to develop a plan for the use of the facility and develop a request for proposals.
- Requires the Department of Education (DOE) to provide administrative support for the working group.

- Requires the DMS to survey state agencies, and to invite bids and proposals for the use or disposition of the facility and related assets. The DMS will evaluate these bids and proposals and make a recommendation to the working group.
- Requires the working group to make a final determination for the use or disposition of the facility and related assets which will be subject to the notice, review, and objection procedures of s. 216.177, F.S.
- Appropriates \$50,000 of General Revenue to the DOE to carry out the provisions of this act.

III. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Alternative Education Institute

In 1994, the Alternative Education Institute (AEI) was established within the Department of Education (DOE) to serve juvenile offenders who had been prosecuted as adults or who had been committed to a high risk or a maximum risk residential program of the Department of Juvenile Justice (DJJ). Upon its creation, AEI was authorized to immediately contract with a private provider for provision of alternative education programs in residential school facilities. AEI was to be organized as a not-for-profit corporation acting as an instrumentality of the state, and was authorized to hold property, moneys, lands, and income for the benefit of AEI and the fulfillment of its alternative education mission. (s. 108, ch. 94-209, LOF)

A \$30 million appropriation of Public Education Capital Outlay (PECO) funds was provided by the 1994-95 General Appropriations Act "to fully fund the acquisition, renovation and/or construction of juvenile education residential facilities" as authorized by law. Proviso language states the intent of the Legislature that the title to real property and facilities purchased or constructed with these PECO funds be vested with the state or a local school district. The \$30 million Development, Design, Build Agreement (DDBA) for construction of the Adam Paine Academy in a rural area in Hillsborough County (Ruskin, FL) was awarded to Griff Mills Schools, Inc.--the parent company which operates the Glen Mills School in Concordville, Pennsylvania.

From the onset, AEI's oversight and management of the project was questionable. In response to the controversy, the Commissioner of Education requested of the Governor that an audit of the project be initiated and that, until a determination was made regarding the proper expenditure of public funds, funds to AEI be suspended or discontinued. An investigative report released by the Chief Inspector General's Office in June of 1997 identified instances in which AEI did not perform effective oversight before awarding the contract for facility construction and during the construction of the facility.

The Department of Management Services (DMS) reported that a site inspection in October 1997 revealed that the facility was about 50% complete but construction of the facility had been halted due to outstanding unpaid invoices. Further, the original DDBA between AEI and Griff Mills Schools, Inc. and a construction contract between Griff Mills Schools, Inc. and Kvaerner Construction, Inc. had both been terminated, making it impossible to pay subcontractors for completed construction.

During the 1997 special session, legislation was enacted to provide additional state oversight while construction of the facility is completed. (s. 62, ch. 97-238, LOF) Effective 10 days after the bill became a law, all terms of the existing AEI board members expired and new board members were appointed. AEI was retained as a body corporate, for purposes of completing the existing construction contract and DMS was authorized, on behalf of the board, to direct change orders in any existing construction contracts, provide oversight for approval of invoices, and provide site inspection services.

This legislation also shifted the mission of AEI facility from a residential facility for juvenile offenders to a public school for at-risk youth, as defined by the board of directors, who can benefit from an alternative educational setting. The board was required by February 1, 1998, to develop and submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Commissioner of Education a recommendation for the future use of the facility. Options for the use of the facility to be considered were: transferring the facility to a local school district in the region for operation, transferring the facility to a university or community college for operation, or contracting with a private provider to operate the facility under the revised mission.

The newly reorganized AEI board recommended that the facility be placed under the regulatory authority of DJJ and that the facility be used for preadjudicated and at-risk youth who are middle school age and older and who live in the Tampa Bay area. The board further recommended that a local community advisory board be established. The Commissioner of Education concurred with this recommendation. The board also initiated a Florida Department of Law Enforcement criminal investigation of all parties involved in contractual agreements regarding this project.

Section 230.23162, F.S., is scheduled for repeal June 30, 1998, at which time the Alternative Education Institute and governing board will be dissolved .

Notice, Review, and Objection Procedures

Section 216.177, F.S., provides notice, review, and objection procedures regarding the expenditure of specific appropriations. The chairs of the legislative appropriations committees are required by this section to jointly transmit certain documents to provide additional explanation relative to the purpose, objectives, spending philosophy, and restrictions associated with any specific appropriation to the Executive Office of the Governor, the judicial branch, the Administration Commission, and each affected state agency.

The chairs of the legislative appropriations committees, or the President of the Senate and the Speaker of the House of Representatives, are authorized to advise, in writing, the Executive Office of the Governor, the Chief Justice of the Supreme Court, or the Administration Commission that an action or a proposed action subject to the notice and review requirements of chapter 216 is contrary to legislative policy and intent. Upon such notification the Governor, the Chief Justice of the Supreme Court, or the Administration Commission must void such action and instruct the affected state agency or entity of the judicial branch to change immediately its spending action or spending proposal until the Legislature addresses the issue.

B. EFFECT OF PROPOSED CHANGES:

Alternative Education Institute

Notwithstanding any other provision of law, the bill abolishes the Alternative Education Institute (AEI) and revises provisions relating to the residential facility originally authorized to be constructed by AEI. The bill transfers ownership of the facility from AEI to the Department of Management Services (DMS) and authorizes DMS to access funds previously appropriated to the AEI, in order to complete the construction of the facility to the extent necessary to stabilize assets and prepare the facility for future use.

The bill creates a working group to be composed of the following eight members:

- One member each from the Department of Education (DOE), Department of Juvenile Justice, and Department of Children and Family Services;
- One member appointed by the President of the Senate;
- One member appointed by the Speaker of the House;
- One representative of the 13th judicial circuit of Hillsborough County, to be appointed by the Chief Circuit Judge;
- One representative of the Hillsborough School District; and

- One representative from local law enforcement to be appointed by the Sheriff of Hillsborough County.

The working group will be responsible for developing a plan for the use of the facility and developing a request for proposals or request for operation of the program by a private contractor. In evaluating possible uses for the facility, the working group is required to assess the needs of categories of clients served by the member agencies, outline a program structure, and make further recommendations including a proposed private provider for implementation. The group is required to consider previous recommendations for the use of the facility and to specifically consider the viability of prior proposals. DOE is required to provide administrative support for the working group.

By June 15, 1998, DMS is required to survey state agencies, and to invite bids and proposals from state agencies, local government agencies, federal agencies, and the private sector for the use or disposition of the facility and related assets. By October 1, 1998, DMS will evaluate these bids and proposals and make a recommendation to the working group, taking into account local and state interests and concerns.

Taking into consideration the recommendation of DMS, and local and state concerns and interest, the working group will, no later than November 1, 1998, make a final determination for the use or disposition of the facility and related assets. Such determination will be subject to the notice, review, and objection procedures of s. 216.177, F.S.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

- a. Does the bill create, increase or reduce, either directly or indirectly:

- (1) any authority to make rules or adjudicate disputes?

N/A

- (2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

The bill creates a working group to develop a plan for the use of the facility a develop a request for proposals. DMS is required to survey state agencies, and to invite bids and proposals from state agencies, local government agencies, federal agencies, and the private sector for the use or disposition of the facility and related assets. DMS will evaluate these bids and proposals and make a recommendation to the working group.

The bill requires the working group to make a final determination for the use or disposition of the facility and related assets which will be subject to the notice, review, and objection procedures of s. 216.177, F.S. The bill requires DOE to provide administrative support.

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

N/A

b. Does the bill require or authorize an increase in any fees?

N/A

c. Does the bill reduce total taxes, both rates and revenues?

N/A

d. Does the bill reduce total fees, both rates and revenues?

N/A

e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

N/A

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

This bill amends section 230.23162, F.S.

E. SECTION-BY-SECTION RESEARCH:

Section 1: Abolishes the Alternative Education Institute, notwithstanding any other provision of law.

Section 2: Amends s. 230.23162, F.S., relating to the Alternative Education Institute; providing for transfer of ownership from AEI to DMS; authorizing DMS to access funds previously appropriated to the AEI; providing duties of DMS; establishing a working group to develop a plan for the use of the facility; requiring DOE to provide administrative services to the working group; requiring DMS to make a recommendation to the working group and requiring the working group to make a final determination for the use of the facility and related assets; and providing for this determination to be subject to certain notice, review, and objection procedures.

Section 3: Appropriates \$50,000 of General Revenue to the DOE to carry out the provisions of this act.

Section 4: Provides an effective date of upon becoming a law.

IV. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

See Fiscal Comments.

2. Recurring Effects:

See Fiscal Comments.

3. Long Run Effects Other Than Normal Growth:

See Fiscal Comments.

4. Total Revenues and Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

See Fiscal Comments.

2. Recurring Effects:

See Fiscal Comments.

3. Long Run Effects Other Than Normal Growth:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

N/A

3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

D. FISCAL COMMENTS:

The Legislature included an appropriation of \$30 million (PECO funds) in the 1994-95 General Appropriations Act to fund the total cost to plan, construct, acquire and/or equip new facilities and/or renovate existing facilities to be used as the juvenile education residential facility authorized by s. 39.085, F.S., renumbered as s. 985.402, F.S. According to the DOE, approximately \$11.7 million, of the \$30 million originally appropriated, has been disbursed to the AEI. Additional appropriations to the AEI have included \$150,000 from the General Revenue fund each year during the 1994-95, the 1995-96, and the 1996-97 General Appropriations Acts, for planning.

The bill appropriates \$50,000 of General Revenue to DOE for the 1998-1999 fiscal year to carry out the provisions of this act.

V. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to expend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

VI. COMMENTS:

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 7, 1998, the bill was reported favorably as a committee substitute by the Senate Committee on Criminal Justice.

VIII. SIGNATURES:

FINAL RESEARCH PREPARED BY COMMITTEE ON EDUCATION K-12:

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