

STORAGE NAME: h4509.edk

DATE: April 5, 1998

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

BILL #: HB 4509

RELATING TO: Alternative Education Programs

SPONSOR(S): Representative Alexander

COMPANION BILL(S): SB 2480

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

- (1) EDUCATION K-12
 - (2)
 - (3)
 - (4)
 - (5)
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I. 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:

- Requires the program to be jointly operated by the Department of Juvenile Justice and the Hillsborough County school board.
- Provides for transfer of ownership of the facility from AEI to the State of Florida.
- Authorizes the Department of Management Services to access funds previously appropriated to the AEI, in order to complete the construction of the facility.
- Requires that students served in the facility reside in specified counties, not be adjudicated, and be at risk.
- Requires funding for the residential component of the program offered at the facility to be provided though appropriations to the Department of Juvenile Justice and funding for the education component of the facility to be provided through the Florida Education Finance Program.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

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 of 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 more direct 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. The AEI was retained as a body corporate, for purposes of completing the existing construction contract and the 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 the 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 the 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

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recommended that a local community advisory board be established. The Commissioner of Education concurs 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 .

B. EFFECT OF PROPOSED CHANGES:

The bill revises provisions relating to the residential facility originally authorized to be constructed by the AEI in the following ways:

- Requires the program to be jointly operated by the Department of Juvenile Justice and the Hillsborough County School Board.
- Provides for transfer of ownership of the facility from AEI to the State of Florida.
- Authorizes the DMS to access funds previously appropriated to the AEI, in order to complete the construction of the facility.
- Requires that students served in the facility reside in Hillsborough County, Pinellas County, Manatee County, Polk County, or any other county that enters into an agreement with the DJJ and the Hillsborough County School Board; not be adjudicated; and be at risk.
- Requires funding for the residential component of the program offered at the facility to be provided through appropriations to the Department of Juvenile Justice. Funding for the education component of the facility will be provided through the Florida Education Finance Program.

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 provides that the facility authorized to be constructed by the AEI, will be a residential public education facility to be jointly operated by DJJ and the Hillsborough County School Board.

(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?

The responsibility for operating the facility is given to DJJ and the Hillsborough County School Board.

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

The cost to operate the facility is indeterminate, however, the funding for the residential component of the program at the facility must be provided through appropriations to DJJ and funding for the educational component must be provided through the Florida Education Finance Program.

(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?

The bill provides an option for children residing in Hillsborough, Pinellas, Manatee, Polk, or any other county that enters into an agreement with DJJ and the Hillsborough County School Board to attend this residential public education facility upon meeting the criteria established in the bill and the cooperative agreement.

- 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: Amends s. 230.23162, F.S., relating to the Alternative Education Institute; requiring the facility authorized to be constructed by the AEI to be operated by the Department of Juvenile Justice and the Hillsborough County School Board; providing for transfer of ownership from AEI to the State of Florida; authorizing the DMS to access funds previously appropriated to the AEI; requiring that students served in the facility reside in specified counties, not be adjudicated, and be at risk; and providing for funding.

Section 2: Providing an effective date of upon becoming a law.

III. 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 1995-95, and the 1996-97 General Appropriations Acts, for planning.

The bill requires funding for the residential component of the program offered at the facility to be provided through appropriations to the DJJ. The per diem estimated by DJJ for the residential component of the program is \$140 to \$160 per youth. If 500 youth are served annually for an average length of stay of one year, the cost to the DJJ will be \$25,550,000 per year for contracted services (based on a per diem of \$140).

Funding for the education component of the facility will be provided through the Florida Education Finance Program. Funding for students in dropout prevention programs is currently provided at the weighted FTE rate of \$4,364.27 per student. (1.438 WFTE) If 500 students are served annually for an average length of stay of one school year, \$2,182,135 would be provided through the FEFP.

IV. 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.

V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

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VII. SIGNATURES:

COMMITTEE ON EDUCATION K-12:

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