

STORAGE NAME: h4509.jj

DATE: April 13, 1998

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
JUVENILE JUSTICE
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 YEAS 9 NAYS 1
 - (2) JUVENILE JUSTICE
 - (3) CRIMINAL JUSTICE APPROPS
 - (4)
 - (5)
-

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 either directly or by contracting for services by the Department of Juvenile Justice and the Hillsborough County School Board through a cooperative agreement.
- 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 delinquent; and be "at risk" as defined in a cooperative agreement between the Department of Juvenile Justice and the Hillsborough County School Board.
- Requires funding for the residential component of the program offered at the facility to be provided through 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 stated that the intent of the 1994 Legislature was 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 and 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., a Florida-based corporation with connections to the corporation which operates the Glen Mills School in Concordville, Pennsylvania.

From the onset, questions were raised about AEI's oversight and management of the project. In response to the controversy, the Commissioner of Education requested the Governor's Office to initiate an audit of the project and that until a determination was made regarding the proper expenditure of public funds, all funds to AEI should be suspended or discontinued. A report released by the Governor's Inspector General 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 that 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 law, all terms of the existing AEI board members expired and new AEI board members were appointed. The AEI was retained as a corporate body for purposes of completing the existing construction contract and the DMS was authorized, on behalf of the AEI board, to direct change orders in any existing construction contracts, provide oversight for approval of invoices, and provide site inspection services.

The 1997 special session legislation also shifted the mission of the AEI facility from a residential facility for juvenile offenders to a public school facility for students who can

benefit from an alternative educational setting. The AEI 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. The Commissioner of Education is required to consider the AEI recommendation and make a final recommendation to the Legislature. Options for the use of the facility to be considered by the AEI board included, but were not limited to: 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.

At a January 1998 AEI board meeting, the DJJ presented a proposal to the AEI board that the residential facility be used to provide specialized educational and vocational services for male juvenile offenders who were on aftercare from placement in residential commitment programs statewide as a transition to community supervision. These youth would be assessed to be low risk in terms of public safety and would reside in the facility between 6 to 18 months. DJJ also proposed that the facility also serve as a training site for DJJ staff and university interns.

Following the January meeting, the AEI board sought additional proposals from public and private parties through a notification in the Florida Administrative Weekly. At its February meeting, the AEI board heard six proposals on what the facility could be used for. Two of the proposals targeted adjudicated delinquent youth and four proposals targeted "academically at risk youth." After hearing presentations, the AEI board moved that the facility be used for youth in the Tampa Bay area, that it be used for preadjudicated and at-risk youth who are middle-school age and older, and that a local community advisory board be established.

The AEI board also moved that DJJ, in consultation with other agencies, should determine the best purpose of the facility and that DJJ should also determine whether the program will be for juvenile offenders on aftercare or for at-risk youth. DJJ made the point that this motion was in conflict with the motion made by the AEI board that the facility be used for "preadjudicated and at-risk youth." DJJ staff also stated at the AEI meeting that DJJ does not provide educational, substance abuse, or mental health services and that the AEI board should consider other agencies which have these responsibilities. After consideration by the AEI board, it moved that the facility be placed under the auspices of DJJ.

In a March 1998 report to the Legislature and the Commissioner of Education, the newly reorganized AEI board recommended that the facility be placed under the "regulatory authority and auspices" of the DJJ. Further, the AEI board recommended 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. In a March 16, 1998 letter to the Legislature, the Commissioner of Education concurred with the AEI recommendation.

In its March 1998 report, the AEI board also reported other actions. These actions included: authorizing the Department of Management Services to secure the facility and take necessary steps to protect the structure and on site equipment; entering into an interagency agreement between DMS and DOE and access funds needed for securing the facility site; and requesting the Florida Department of Law Enforcement to conduct

an investigation to determine any criminal activities of all parties involved in contractual agreements regarding the 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, either directly or by contracting for services, by the Department of Juvenile Justice and the Hillsborough County School Board through a cooperative agreement.
- 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 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 delinquent; and be "at-risk" as defined in the cooperative agreement.
- Requires funding for the residential component of the program offered at the facility to be provided through appropriations to the Department of Juvenile Justice and that funding for the education component of the facility to 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 delinquent, 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, equip new facilities, 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 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 (1.438 WFTE) of \$4,364.27 per student. 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:

The Senate companion to this bill (SB 2480) was heard by the Senate Criminal Justice Committee on April 7, 1998 where it was passed out as a committee substitute. Discussion and questions raised by committee members concerned the role DJJ ought to play, if any, in an alternative residential educational facility for non-adjudicated delinquent at-risk youth. Following this meeting, Senate and House staff, staff from DJJ, DOE, DMS, and DCFS, AEI board members, and persons representing the Hillsborough County School Board met to discuss how to reconcile the issue of what should happen to the AEI facility since DJJ continues to express its opposition to assuming responsibility for an educational residential facility for at-risk students. Neither does the Hillsborough County School Board wish to assume control of the facility without a state agency having a role in the project. Since no state agency appears to want the AEI facility, discussion at this meeting turned to other alternatives for the facility. As of April 13, 1998, bill sponsors and legislative staff are drafting language acceptable to all parties. The Senate version of HB 4509 is currently in the Senate Education Committee.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

As mentioned in Section V, amendatory language is being prepared.

VII. SIGNATURES:

COMMITTEE ON EDUCATION K-12:

Prepared by:

Legislative Research Director:

Molly A. Jones

M. Elizabeth Atkins

AS REVISED BY THE COMMITTEE ON JUVENILE JUSTICE:

Prepared by:

Legislative Research Director:

Ken Winker

Ken Winker