

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1774

SPONSOR: Governmental Oversight & Productivity Committee and Senator Lee

SUBJECT: State-Owned Property

DATE: April 6, 1999

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Wilson</u>	<u>Wilson</u>	<u>GO</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>FP</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

The committee substitute requires the Department of Management Services to work with contractors to stabilize the Adam Paine Academy and to continue to facilitate interest in it by private entities. Further, the department is directed to invite public-agency proposals to provide an educational program for nonadjudicated youths, and to encourage other proposals and funding requests consistent with state and local community needs and concerns. Additionally, the department is required to continue to work with project proposers who submitted proposals and an addendum to proposals to the working group.

The committee substitute amends section 230.23162, Florida Statutes.

II. Present Situation:

Background on the AEI

In 1994, the Legislature enacted s. 39.085, F.S., which created the AEI within the Department of Education (DOE).¹ The AEI was a 13-member board, comprised of seven members appointed by the Governor, three members appointed by the President of the Senate, and three members appointed by the Speaker of the House of Representatives. The law specified that the AEI be a not-for-profit corporation acting as an instrumentality of the state, receiving, holding, investing, and administering property and any received moneys for the benefit of the institute and its mission. The AEI's duties were expressly enumerated under this law.

The AEI was authorized to contract immediately with a private provider for alternative education programs in residential school facilities, using Public Education Capital Outlay (PECO) funds.

¹Chapter 94-209, L.O.F. This section was renumbered during the 1997 Legislative Session as s. 985.402, F.S., by ch. 97-238, L.O.F.

The alternative education programs were to serve juvenile offenders who had been prosecuted as adults or committed to a high-risk or maximum-risk residential commitment program within the Department of Juvenile Justice (DJJ).

As a result of this law, \$30 million in PECO funds was appropriated for the construction of a 500-bed residential school facility in Hillsborough County, known as the Adam Paine Academy. Construction of the facility was initiated pursuant to a contract between the AEI and the Griff Mills Schools, Inc., a recently formed for-profit corporation.

However, in 1997, the Commissioner of Education stopped payments to the AEI pending an investigation into allegations of possible misuse of public moneys. In response to the requested investigation, the Governor's Chief Inspector General released a report on June 30, 1997, entitled *Inquiry into the Development, Design and Construction Agreement for the Adam Paine Academy between the Alternative Education Institute, Inc. And Griff Mills Schools, Inc.* Generally, the report found that the AEI had not provided effective oversight of the project. It also found the sole respondent to the request for proposal to be a thinly capitalized corporation. Among other items discussed in the Inspector General report were charges and cross-charges made by board members about alleged but unproven ethical violations and conflicts of interests, and additional allegations of private business conducted at AEI's offices.

Special Session Legislation in Response to the AEI's Ineffectiveness

As a result of the report's findings, the Legislature passed SB 8-A during the 1997 Special Session.² Section 985.402, F.S., was renumbered as s. 230.23162, F.S., and amended to provide for the replacement of the board of AEI within ten days of the committee substitute's effective date, November 22, 1997, and mandated the appointment of new board members. The membership of the board changed from thirteen to seven, with two members each being appointed by the Governor, the President of the Senate, and the Speaker of the House. The Commissioner of Education was authorized to appoint the seventh member.

The Department of Management Services (DMS), on behalf of the board, was directed to oversee the remaining construction, be responsible for change orders in existing construction contracts, and provide site inspection services as necessary. (The facility is about 50% complete.) Funds were prohibited from being used for staff housing construction unless specifically authorized by the DMS after consulting with the DOE. The new law provided that if the construction contract is terminated, or the AEI is dissolved, ownership of the facility is to be transferred to the DMS until a plan for the operation of the school facility has been adopted. The DOE is directed to provide administrative support to the board and the Department of Legal Affairs is directed to provide legal counsel.

The new law also deleted the language in s. 985.402, F.S., which required the alternative education facility to serve adjudicated juvenile offenders committed to the DJJ. The newly constituted board is charged with developing plans for the use of the facility and reporting its recommendations to the Commissioner of Education and the Legislature by February 1, 1998.

²Chapter 97-382, L.O.F.

The plan was to address the option of transferring the facility to a local school district, a university or community college, a state agency, or a private provider for operation under the revised mission of the facility. The Commissioner of Education was required to consider the board's recommendations and make a final recommendation to the Legislature for the appropriate use of the educational facility.

Finally, the new law provides for the expiration of this statute on June 30, 1998, which will deauthorize the AEI and dissolve the governing board. Once the law expires, the Auditor General is required to perform a post-audit of all financial activities of the facility.

Actions and Recommendations by the Newly Created AEI Board

Since the passage of this legislation, the newly created board has met twice to conduct business, to receive public testimony, and to fulfill its statutory duties. The board has taken the following actions: authorized the DMS to secure the facility and to take necessary steps to protect the structure and any equipment on the construction site; authorized payment for securing the property with the \$18,000 in the institute's PECO account; and requested the Florida Department of Law Enforcement to investigate any criminal activity on the part of any of the parties involved in the contractual agreements.

In addition, the board submitted the following recommendations to the Commissioner of Education and to the Legislature: place the educational facility under the regulatory authority of the DJJ and use it for regional purposes to benefit preadjudicated and at-risk middle-school aged and older children in Hillsborough County. The board also recommended establishing a local community advisory board. The Commissioner of Education concurred with these recommendations.

The 1998 Legislature reamended s. 230.23162, F.S., to transfer ownership of the school to the DMS. That agency was charged with preservation and security of the partially completed physical plant and was given access to the unspent PECO funds allocated to AEI. The legislation created a working group of several officials from state and local government whose task was to evaluate future uses and proposals for the facility. The DMS was charged with undertaking a survey for possible state agency use of the facility and its property. A recommendation from the working group was due to the Legislature by November 1, 1998. That undated recommendation, without attribution, was received in early 1999 and suggested a continuation of the activities contemplated in the 1998 legislation. The recommendations encouraged a wider, multi-agency audience for use consideration, reimbursement of expended funds should a private entity purchase the property, and adoption of deed restrictions consonant with surrounding community needs. It also identified a possible multi-agency use for further exploration but advised continued review and input from all affected parties in the area.

III. Effect of Proposed Changes:

The committee substitute amends s. 230.23162, F.S., to require the Department of Management Services (DMS) to continue to work with contractors to weatherize, close in, and stabilize the Adam Paine Academy and to protect the assets, and resolve any claims regarding the facility.

The DMS is also instructed to facilitate interest in the site by the private sector or by public entities capable of serving as either owner, occupant, or fiscal agency for a public-private partnership. Any entity, whether public, private, or a public-private partnership, must meet all of the criteria specified in the revised DMS Request for Proposal dated August 21, 1998. That request was issued pursuant to ch. 98-209, L.O.F.

The DMS, in cooperation with the relevant state agencies, is directed to continue to receive and evaluate proposals for the use or transfer of the facility described in subsection (1) and, after taking into account local and state concerns and interests, may make a final disposition for use or transfer of the facility. This process is still subject to the notice, review, and objection procedures of s. 216.177, F.S.

The DMS is also required to continue to invite public-agency proposals and related funding requests, from either state or local agencies, to provide an educational program for nonadjudicated youth. Further the DMS is instructed to continue to encourage other proposals and funding requests consistent with state and local community needs and concerns.

Upon request, the DMS is required to continue to work with project proposers who submitted proposals, and an addendum to proposals to the working group pursuant to ch. 98-209, L.O.F.

In considering any proposals, the DMS and the Legislature are required to take into account local and state interests and concerns.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the DMS, there is no fiscal impact because funds were previously appropriated for the alternative education institute for this purpose.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The 1998 amendments used the phrase “final determination” to describe the ending action of the working group’s review process. It followed that with a cross-reference to s. 216.177, F.S., which specifies respective duties of the Senate, House of Representatives, and the Governor in statements of legislative intent on the General Appropriations Act. The working group is not a state agency nor a creature of the legislative branch. It is unclear what specific actions are forthcoming either from the Governor or the presiding legislative branch officers as a result of this 1998 legislation.

The bill requires the Legislature to take into account local and state interests and concerns. One session of the Legislature, however, may not bind a future Legislature.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
