

Department of Legislative Services  
Maryland General Assembly  
2006 Session

**FISCAL AND POLICY NOTE**

Senate Bill 114 (Chairman, Judicial Proceedings Committee)  
(By Request – Departmental – Public Safety and Correctional Services)  
Judicial Proceedings

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**Correctional Services - Maryland Correctional Enterprises - Construction**

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This departmental bill authorizes the Commissioner of Correction and the Chief Executive Officer of Maryland Correctional Enterprises (MCE), with approval of the Secretary of Public Safety and Correctional Services, to develop programs to provide “construction” for State correctional facilities. The programs established under this provision subsection are not subject to the procurement provisions of the Correctional Services Article and Maryland’s General Procurement Law (except for its definitions of terms).

A construction project under these provisions may not exceed \$500,000 in total costs as determined by the Secretary.

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**Fiscal Summary**

**State Effect:** Annual increases of MCE revolving fund revenues and expenditures of varying amounts, as determined by capital construction plans for the Division of Correction (DOC). Although individual project costs are limited to \$500,000, some annual costs may exceed that amount due to multiple projects.

**Local Effect:** None.

**Small Business Effect:** The Department of Public Safety and Correctional Services (DPSCS) has determined that this bill has minimal or no impact on small business (attached). Legislative Services disagrees with this assessment. This bill could result in some DOC construction projects being performed by MCE rather than a private sector contractor or subcontractor.

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## Analysis

**Bill Summary:** “Construction” means the process of building, altering, improving, or demolishing an improvement to real property. It includes any major work necessary to repair, prevent damage to, or sustain existing components of an improvement to real property. It does not include the maintenance or routine operation of an existing improvement to real property, or activities related to an energy performance contract.

**Current Law:** MCE (formerly State Use Industries) is an organization in DOC that:

- is financially self-supporting, generates revenue for its operations and capital investments, and reimburses DOC at a reasonable rate for services exchanged between DOC and MCE;
- provides meaningful work experiences for inmates;
- seeks to develop industries that provide full-time work experience or rehabilitation programs for all eligible inmates;
- operates correctional industries in an environment that resembles as closely as possible the environment of private sector business operations; and
- makes DOC responsible for and accountable to the Secretary of Public Safety and Correctional Services and the Governor for the MCE program.

In addition, DOC must annually submit a complete financial and operational report of MCE and its revolving fund to the Governor, the Secretary of Public Safety and Correctional Services, and the Secretary of Budget and Management.

**Background:** MCE provides work and job training for inmates incarcerated in DOC funded by the sales revenue from the goods it produces and the services it supplies to local, State, and federal agencies. These goods and services are also available for purchase by charitable, civic, educational, fraternal, or religious organizations. MCE’s cost is at or below the prevailing average market price.

The fiscal 2006 capital budget allocation included eight DPSCS projects for a total of approximately \$49.7 million. Seven of these projects are funded by general obligation bonds (\$47.9 million), and one is funded by special fund PAYGO (\$1.8 million). The Capital Improvement Program (CIP) included two projects that were not included in the 2004 CIP: the MCE Warehouse expansion at the Maryland Correctional Institution – Hagerstown, and the Fire Safety Improvements at the Patuxent Institution. The two new projects represented \$2.0 million of the fiscal 2006 allocation.

In addition to new projects, the cost estimates for several projects were increased in the fiscal 2006 CIP. The Patuxent Institution Electrical Service upgrade was estimated at \$5 million in the fiscal 2005 CIP but increased by \$300,000 in the fiscal 2006 request. Costs for the Division of Pretrial Detention and Services Property Acquisition and Demolition

project have increased by \$940,000 in the fiscal 2005 CIP. Planning costs for the new warehouse at the Western Correctional Institution increased by \$38,000, while the total project cost increased by \$438,000. Finally, the request for the third housing unit at the North Branch Correctional Institution was \$36.2 million, while the 2004 CIP planned to build both housing units three and four for \$53.8 million.

The MCE Warehouse expansion at the Maryland Correctional Institution expects to use supervised construction services (labor) supplied by MCE, as a subcontract by the general contractor for the project. A funding certification of \$1.8 million has been made by DPSCS for the warehouse project.

As of December 31, 2006, MCE's revolving fund had an unencumbered balance of \$4,751,604. MCE also notes a \$1 million special fund obligation to the Maryland State Department of Education in fiscal 2007, 2008, and 2009, as required by the 2005 Budget Reconciliation and Financing Act.

**State Fiscal Effect:** This bill allows DOC and MCE to establish a program through which up to \$500,000 (per project) of the annually budgeted capital program appropriation for DPSCS could be used as on-the-job training for participating inmates. MCE advises that funds would be transferred from the overall capital program to MCE's revolving fund, as needed for each project based on bid estimates and prevailing wage requirements. In any given year, MCE estimates that approximately \$450,000 could be expected to be transferred to the revolving fund for the program. This would typically represent less than 1% of the expected capital appropriation for the year. The bill only restricts spending for this program to a limit of \$500,000 per project. Total annual program spending could far exceed the \$450,000 estimate, but would also have to be within the annual limitations of the capital program appropriation. Any contractual supervisors needed for each project would be paid (including fringe benefits) out of each project allotment under the program.

Legislative Services also notes that MCE programs for DOC capital construction projects could be developed absent the provisions of this bill – as was accommodated in fiscal 2006 with the construction of the MCE warehouse. This bill primarily allows the transfer of DPSCS capital program appropriations to the MCE revolving fund for inmate labor on DOC construction projects (up to \$500,000 per project) without having to tap existing revolving fund balances for such purposes.

The extent to which this bill could result in savings on construction projects for DPSCS cannot be reliably estimated and would tend to vary by project.

## **Additional Information**

**Prior Introductions:** HB 1541 of 2005 passed the House, was referred to the Senate Judicial Proceedings Committee, and had no further action taken on it.

**Cross File:** None.

**Information Source(s):** Department of Public Safety and Correctional Services,  
Department of Legislative Services

**Fiscal Note History:** First Reader - January 24, 2006  
mam/jr

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