

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE

House Bill 744 (Chair, Health and Government Operations Committee) (By Request –
Departmental – Public Safety and Correctional Services)

Health and Government Operations

Education, Health, and Environmental
Affairs

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

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 training programs to provide construction and construction-related services for State correctional facilities. The programs must be developed in consultation with the Maryland and District of Columbia building trades councils. The programs 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.

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. The bill could result in

some DOC construction projects being performed by MCE rather than a private-sector contractor or subcontractor.

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.

“Construction-related services” means feasibility studies, surveys, construction management, construction inspection, and similar efforts associated with construction or the acquisition of public improvements. It does not include services provided in connection with an energy performance contract.

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

- is financially self-supporting, generates revenues 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 revenues 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 2009 capital request for DPSCS totals approximately \$42.5 million, including grants and loans for local jails and detention centers. All these projects are funded by general obligation bonds. One project, a vocational education building at Western Correctional Institution, was added for fiscal 2009 to address “inmate idleness” at WCI. That project represents about \$1.1 million of the fiscal 2009 request. Four projects originally scheduled for fiscal 2009 were deleted and deferred to later years, and two projects scheduled for fiscal 2010-2012 were changed. One of the changed projects, at North Branch Correctional Institution, now includes a capital funding request for a new MCE facility to reduce inmate idleness for more than 1,000 inmates housed at that facility and to meet the anticipated demand for MCE products.

DOC population has experienced significant growth over the last 15 years. The average daily population (ADP) hit an all-time high in fiscal 2003 at 23,633 inmates but has since declined. The fiscal 2006 population was 2.6% below the 2003 peak at 22,059. Although the population does show some leveling off, current estimates continue to project modest population increases. Despite a slowing in growth of ADP, the housed inmate population continues to far exceed the design capacity of the department’s facilities.

This shortfall was exacerbated when the Maryland House of Correction (MHC) was closed on March 17, 2007, due to the facility’s antiquated design and safety concerns. In October 2007, the department submitted a 2007 *Joint Chairmen’s Report* response providing details on how the closure has impacted DOC, from both an operational and capital construction aspect. According to that report, future plans include the demolition of MHC’s main building and development of a site for a new updated prison. Plans for the replacement facility are still in the early stages, and it is not clear whether the plan outlined in the current Facilities Master Plan reflects current population needs. DPSCS included a request for demolition design funds in its fiscal 2009 Capital Budget Plan; however, funds for this purpose were not included in the Governor’s fiscal 2009 capital budget. The plan does indicate an expansion of MCE’s uniform shop at the Jessup Correctional Institution, slated to begin with planning costs of \$550,000 in fiscal 2013.

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 nearly 1% of the expected capital appropriation for the year (\$42.5 million). 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 1301 of 2007, a similar bill, received an unfavorable report from the House Health and Government Operations Committee. Similar departmental bills were also introduced in 2005 and 2006. SB 114 of 2006 received an unfavorable report from the Senate Judicial Proceedings Committee. HB 1541 of 2005 passed the House, was referred to Judicial Proceedings, and had no further action taken.

Cross File: None.

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

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