4/1/15 11:10 A.M.

Chapter No. 432
15/HR40/R607SG

HOUSE BILL NO. 400

Originated in House _____ Clerk

HOUSE BILL NO. 400

AN ACT TO AMEND SECTION 47-5-158, MISSISSIPPI CODE OF 1972, TO REQUIRE THAT THE INMATE WELFARE FUND BE A SPECIAL FUND IN THE STATE TREASURY; TO PROVIDE FOR THE MANAGEMENT OF THE FUND; TO REVISE THE COMPOSITION OF THE INMATE WELFARE FUND COMMITTEE; TO REQUIRE THAT THE INMATE WELFARE FUND COMMITTEE ADOPT RULES AND REGULATIONS AND CONDUCT NEEDS ASSESSMENTS FOR FUTURE PURCHASES FROM THE FUND; TO ESTABLISH A PROCESS FOR THE SELECTION OF A THIRD PARTY TO ADMINISTER INMATE CANTEEN SERVICES FOR THE DEPARTMENT OF CORRECTIONS; TO REQUIRE THE DEPARTMENT TO SUBMIT A REQUEST FOR PROPOSALS FOR SUCH ADMINISTRATION; TO PROVIDE EVALUATION OF SUCH SERVICES BY THE PERFORMANCE EVALUATION AND EXPENDITURE REVIEW (PEER) UNDER CERTAIN CIRCUMSTANCES; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 47-5-158, Mississippi Code of 1972, is amended as follows:

47-5-158. (1) The department is authorized to maintain a bank account which shall be designated as the Inmate Welfare Fund. All monies now held in a similar fund <u>or in a bank account or accounts</u> for the benefit and welfare of inmates shall be deposited into the Inmate Welfare Fund. This fund shall be used for the benefit and welfare of inmates in the custody of the department <u>and shall be expended in accordance with any provisions or</u>

restrictions in the regulations promulgated under subsection (7) of this section.

(2) There shall be deposited into the Inmate Welfare Fund interest previously earned on inmate deposits, all net profits from the operation of inmate canteens, * * * performances of the Penitentiary band, interest earned on the Inmate Welfare Fund and other revenues designated by the commissioner. All money shall be deposited into the Inmate Welfare Fund as provided in Section 7-9-21 * * *.

(3) All inmate telephone call commissions shall be paid to the department. Monies in the fund may be expended by the department, upon requisition by the commissioner or his designee, only for the purposes established in this subsection.

(a) Twenty-five percent (25%) of the inmate telephone call commissions shall be used to purchase and maintain telecommunication equipment to be used by the department.

(b) Until July 1, 2008, twenty-five percent (25%) of the inmate telephone call commissions shall be deposited into the Prison Agricultural Enterprise Fund. Beginning on July 1, 2008, thirty-five percent (35%) of the inmate telephone call commissions shall be deposited into the Prison Agricultural Enterprise Fund. The department may use these funds to supplement the Prison Agricultural Enterprise Fund created in Section 47-5-66.

(c) Forty percent (40%) of the inmate telephone call commissions shall be deposited into the Inmate Welfare Fund.

(4) The commissioner may invest in the manner authorized by law any money in the Inmate Welfare Fund that is not necessary for immediate use, and the interest earned shall be deposited in the Inmate Welfare Fund.

(5) The Deputy Commissioner for Administration and Finance shall * * * establish and implement internal accounting controls for the Inmate Welfare Fund that comply with generally accepted accounting principles and regulations of the Department of Finance and Administration. The Deputy Commissioner for Administration and Finance shall prepare and issue quarterly consolidated and individual facility financial statements to the prison auditor of the Joint Legislative Committee on Performance Evaluation and Expenditure Review. The deputy commissioner shall prepare an annual report which shall include a summary of expenditures from the fund by major categories and by individual facility. This annual report shall be sent to the prison auditor, the Legislative Budget Office, the Chairman of the Corrections Committee of the Senate, and the Chairman of the * * * Corrections Committee of the House of Representatives.

(6) A portion of the Inmate Welfare Fund shall be deposited in the Discharged Offenders Revolving Fund, as created under Section 47-5-155, in amounts necessary to provide a balance not to exceed One Hundred Thousand Dollars ($100,000.00) in the Discharged Offenders Revolving Fund, and shall be used to supplement those amounts paid to discharged, paroled or pardoned

offenders from the department. The superintendent of the Parchman facility shall establish equitable criteria for the making of supplemental payments which shall not exceed Two Hundred Dollars ($200.00) for any offender. The supplemental payments shall be subject to the approval of the commissioner. The State Treasurer shall not be required to replenish the Discharged Offenders Revolving Fund for the supplemental payments made to discharged, paroled or pardoned offenders.

(7) (a) The Inmate Welfare Fund Committee is hereby created and shall be composed of * * * nine (9) members: The Deputy Commissioner for Community Corrections, the Deputy Commissioner of Institutions, the Superintendent of the Parchman facility, the Superintendent of the Rankin County facility, the Superintendent of the Greene County facility, the State Treasurer, the State Auditor, and two (2) members to be appointed by the Commissioner of Corrections, one (1) of whom must have a relative incarcerated by the department at the time of appointment and shall be a representative of inmate families. The commissioner shall appoint the chairman of the committee. The committee shall administer and supervise the operations and expenditures from the Inmate Welfare Fund and shall maintain an official minute book upon which shall be spread its authorization and approval for all such expenditures. The committee * * * shall promulgate regulations governing the use and expenditures of the fund.

(b) Regulations adopted shall set out what types of items shall be allowable purchases, and in all cases, the minutes of the committee shall explain which regulation permits any purchase it approves. Additionally, regulations of the committee shall prescribe the number of members necessary to constitute a quorum, minimum attendance requirements for a member to retain a seat on the committee, and a mission statement for the committee.

(c) The committee shall conduct an annual needs assessment to determine what types of items should be purchased for the benefit of inmates. The needs assessments shall be conducted with the assistance of the department personnel, inmates and the families of inmates.

(d) The committee shall evaluate the proposals of interested third parties for the administration of inmate canteen services as provided in Section 2 of this act.

(8) The Department of Audit shall conduct an annual comprehensive special audit of the committee's use of the Inmate Welfare Fund. The department shall incorporate in its special audit report any recommendations it has concerning the financial and management control practices of the committee. The department shall report its findings and recommendations to the Chairmen of the Senate and House Corrections Committees.

SECTION 2. (1) The Department of Corrections shall contract for the administration of inmate canteen services to a third

party. Such contract shall comply with the procedures set forth in this section:

(a) The Department of Corrections shall cause to be prepared a request for proposals. This request for proposals shall be prepared for distribution to any interested third party. Notice of the department's intention to seek proposals shall be published in a newspaper of general circulation at least one time per week for three (3) weeks before closing the period for interested parties to respond. Additional forms of notice may also be used. The newspaper notice shall inform the interested parties of the service to be contracted, existence of a request for proposals, how it can be obtained, when a proposal must be submitted, and to whom the proposal must be submitted. All requests for proposals shall describe clearly what service is to be contracted, and shall fully explain the criteria upon which an evaluation of proposals shall be based. The criteria to be used for evaluations shall, at a minimum, include:

(i) Require interested third parties to describe their qualifications to provide inmate canteen services to correctional facilities in widely dispersed geographical regions; and

(ii) Describe the department's expectations with regard to commissions, pricing and quality assurance for inmate canteen services.

(b) All proposals submitted by interested parties shall be evaluated by the Inmate Welfare Fund Committee, as established in Section 47-5-158, which shall apply the same criteria to all proposals when conducting an evaluation. The results and recommendations of the evaluation shall be presented to the Department of Corrections for review. All evaluations presented to the department shall be retained by the department for at least three (3) years. The department may accept or reject any recommendation of the committee, or it may conduct further inquiry into the proposals. Any further inquiry shall be clearly documented and all methods and recommendations shall be retained by the department and shall spread upon its minutes its choice of the administrator for inmate canteen services and its reasons for making the choice.

(c) (i) The department shall be responsible for preparing a contract that shall be in accordance with all provisions of this section and all other provisions of law. The contract shall also include a requirement that the contractor shall consent to an evaluation of its performance. Such evaluation shall occur after the first six (6) months of the contract, and shall be reviewed at times the department determines to be necessary. The contract shall clearly describe the standards upon which the contractor shall be evaluated.

(ii) The PEER Committee, at the request of the House or Senate Corrections Committee and with funds specifically

appropriated by the Legislature for such purpose, shall contract with an accounting firm or with other professionals to conduct a compliance audit of the services provided by the contractor. Such audit shall review the compliance with the performance standards required for inclusion in the administrator's contract. Such audit shall be delivered to the Legislature no later than January 1.

(2) Contracts for the administration of inmate canteen services shall commence at the beginning of the calendar year and shall end on the last day of a calendar year. This shall not apply to contracts provided for in subsection (3) of this section.

(3) If the Department of Corrections determines that it is necessary to not renew the contract of an administrator, or finds it necessary to terminate a contract with or without cause as provided for in the contract of the administrator of inmate canteen services, the department is authorized to select an administrator for inmate canteen services without complying with the bid requirements in subsections (1) and (2) of this section. Such contracts shall be for the balance of the calendar year in which the nonrenewal or termination occurred, and may be for an additional calendar year if the department determines that the best interests of the inmates are served by such. Any contract negotiated on an interim basis shall include a detailed transition plan which shall ensure the orderly transfer of responsibilities between contractors.

(4) Except for contracts executed under the authority of subsection (3) of this section, the department shall select administrators of inmate canteen services at least six (6) months before the expiration of the current administrator's contract. The period between the selection of the new administrator of inmate canteen services and the effective date of the new contract shall be known as the transition period. The Department of Corrections shall furnish the Legislature and Governor with copies of all transition plans and keep them informed of progression on such plans.

SECTION 3. This act shall take effect and be in force from and after July 1, 2015.

PASSED BY THE HOUSE OF REPRESENTATIVES
February 11, 2015

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
March 23, 2015

PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR

GOVERNOR

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