

By: Representatives Turner, Taylor, Arnold

To: Accountability,
Efficiency, Transparency;
Corrections

HOUSE BILL NO. 400
(As Sent to Governor)

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

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

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

16 47-5-158. (1) The department is authorized to maintain a
17 bank account which shall be designated as the Inmate Welfare Fund.
18 All monies now held in a similar fund or in a bank account or
19 accounts for the benefit and welfare of inmates shall be deposited
20 into the Inmate Welfare Fund. This fund shall be used for the
21 benefit and welfare of inmates in the custody of the department
22 and shall be expended in accordance with any provisions or



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

25 (2) There shall be deposited into the Inmate Welfare Fund
26 interest previously earned on inmate deposits, all net profits
27 from the operation of inmate canteens, * * * performances of the
28 Penitentiary band, interest earned on the Inmate Welfare Fund and
29 other revenues designated by the commissioner. All money shall be
30 deposited into the Inmate Welfare Fund as provided in Section
31 7-9-21 * * *.

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

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

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

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



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

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

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



73 offenders from the department. The superintendent of the Parchman
74 facility shall establish equitable criteria for the making of
75 supplemental payments which shall not exceed Two Hundred Dollars
76 (\$200.00) for any offender. The supplemental payments shall be
77 subject to the approval of the commissioner. The State Treasurer
78 shall not be required to replenish the Discharged Offenders
79 Revolving Fund for the supplemental payments made to discharged,
80 paroled or pardoned offenders.

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



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

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

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

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

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



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

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

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

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



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

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

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



170 appropriated by the Legislature for such purpose, shall contract
171 with an accounting firm or with other professionals to conduct a
172 compliance audit of the services provided by the contractor. Such
173 audit shall review the compliance with the performance standards
174 required for inclusion in the administrator's contract. Such
175 audit shall be delivered to the Legislature no later than January
176 1.

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

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



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

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

